Memorandum Number:_____



FREX DB SERIES I DST

PRIVATE PLACEMENT MEMORANDUM

Minimum Purchase for Section 1031 Investors: 0.249% Interest ($100,000 of equity and $89,114 of debt)

Minimum Purchase for Cash Investors: 0.062% Interest ($25,000 of equity and $22,278 of debt)

Maximum Offering Amount: $40,178,939 of equity

The date of this Memorandum is March 23, 2026

Investing in Interests involves a high degree of risk. Before investing you should review the entire Private Placement Memorandum, including the "Risk Factors" beginning on page 17.

FREX DB Series I DST

PRIVATE PLACEMENT MEMORANDUM

Class 1 Beneficial Interests in a Delaware Statutory Trust
Minimum Purchase for Section 1031 Investors: 0.249% Interest ($100,000 of equity and $89,114 of debt)
Minimum Purchase for Cash Investors: 0.062% Interest ($25,000 of equity and $22,278 of debt)
Maximum Offering Amount: $40,178,939 of equity (100% ownership of the Trust)

The Trust

FREX DB Series I DST (the "**Trust**") is a recently formed Delaware statutory trust ("**DST**") that is offering to sell (the "**Offering**") 100% of the Class 1 Beneficial Interests issued by the Trust (each, a "**Class 1 Beneficial Interest**" or "**Interest**") to "accredited investors" as defined in Rule 501(a) of Regulation D under the Securities Act (as defined herein), pursuant to the terms of this Private Placement Memorandum (the "**Memorandum**"). Purchasers of Interests pursuant to this Offering ("**Purchasers**") will become beneficial owners of the Trust (each a "**Beneficial Owner**" or a "**Class 1 Beneficial Owner**"), which is the owner of the Property (as defined herein). You should read this Memorandum in its entirety before making an investment decision.

The Sponsor

Fortress Real Estate Exchange LLC, a Delaware limited liability company, is the sponsor (the "**Sponsor**") of the Trust and this Offering. The Sponsor is an affiliate of Fortress Investment Group LLC (together with its consolidated subsidiaries, "**Fortress**"). Fortress is a leading, highly diversified global investment manager. Founded in 1998, Fortress manages $54 billion of AUM on behalf of approximately 2,000 institutional clients and private investors worldwide across a range of credit and real estate strategies. FIG LLC, a wholly-owned subsidiary of Fortress, has been a registered investment advisor since 2004. Fortress was publicly traded between 2007 and 2017, and is currently privately owned, with a consortium led by Mubadala Capital as the majority equity owner. Today, Fortress continues to operate as an independent investment manager under the Fortress brand, with full autonomy over investment processes, personnel, and day-to-day decision making. Fortress's broad investment strategies include corporate credit, asset-based finance, real estate, private equity, insurance solutions, and multi-manager offerings. Please see Fortress's website at www.fortress.com for additional information relating to Fortress and its management and businesses.

The Manager of the Trust

FREX Manager Series I LLC, a Delaware limited liability company (the "**Manager**"), which is an affiliate of the Sponsor, will manage the Trust. The Manager of the Trust will be managed by senior members of the Sponsor's management team, which is described herein.

The Property

Located near West Virginia University ("**WVU**"), the property acquired by the Trust is a residential student housing facility located at 5000 Domain Drive, Morgantown, West Virginia 26501, known as "Domain at Town Centre" (the "**Property**"). The Property consists of approximately 93.61 acres of land upon which are situated across 14 apartment buildings, one clubhouse, and two maintenance buildings (each, a "**Building**") originally constructed in 2012. According to the survey, the Property has a total of 976 parking spaces located throughout the Property, including 17 designated handicap spaces.

The Buildings consist of a total of 336 dwelling units (the "**Dwelling Units**") comprising 48 one-bedroom Dwelling Units, 120 two-bedroom Dwelling Units, 48 three-bedroom Dwelling Units and 120 four-bedroom Dwelling Units that provide a total net leasable floor area of approximately 365,252 square feet. As of March 2026, the Dwelling Units were approximately 93% leased to residential tenants. As of March 12, 2026, the Property was approximately 73% pre-leased for the 2026/2027 academic year ("**AY**").

The Acquisition

The Trust acquired the beneficial ownership of the Property from CPI-GREP Domain Owner, L.L.C. (the "**Seller**") pursuant to that certain Purchase and Sale Agreement dated as of January 21, 2026, as amended (the "**PSA**"). On March 11, 2026, the Trust closed on the acquisition contemplated by the PSA (the **"Acquisition**") with proceeds

derived from: (i) that certain Intracompany Loan from Drawbridge Special Opportunities Fund LP, a Delaware limited partnership ("**DBSO**") to FREX DB Depositor Series I LLC, a Delaware limited liability company (the "**Depositor**") dated on or about even therewith (the "**Depositor Loan**"), and (ii) a loan in the original principal amount of $35,805,000 (the "**Loan**") provided by Wells Fargo Bank, N.A. (the "**Lender**"). At the time of the Acquisition, the Trust incurred the obligation to pay the Manager an acquisition fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property (the "**Acquisition Fee**"). In connection with the formation of the Trust and the foregoing transactions, the Trust issued all of the Class 2 Beneficial Interests in the Trust (the "**Class 2 Beneficial Interests**") to the Depositor. Through the proceeds derived from the syndication of Interests pursuant to this Offering, the Trust intends to redeem the Class 2 Beneficial Interests issued to the Depositor.

The Leases

Concurrent with the Acquisition, the Trust master leased the Property to an affiliate of the Sponsor, FREX DB LeaseCo Series I LLC, a newly-formed Delaware limited liability company (the "**Master Tenant**"), pursuant to a Master Lease Agreement (the "**Master Lease**"). The Master Tenant entered into a property management agreement (the "**Property Management Agreement**") with GREP Atlantic, LLC, a Delaware limited liability company and unrelated third party (the "**Property Manager**"), for the management of the Property. The Master Tenant sub-leases the Property to end-user tenants pursuant to occupant leases.

The Trust and the Trust Agreement

The Trust is governed by that certain Amended and Restated Trust Agreement dated March 11, 2026 (the "**Trust Agreement**"). The Trust is managed by the Manager (also in its capacity as Signatory Trustee (as defined herein)); The Corporation Trust Company as the Delaware Trustee (the "**Delaware Trustee**"); Steven P. Zimmer as the Independent Trustee (the "**Independent Trustee**"); and, once admitted pursuant to the terms of the Purchase Agreement (as defined herein), the owners of the Class 1 Beneficial Interests issued by the Trust. As of the date of this Memorandum, the Depositor owned 100% of the Class 2 Beneficial Interests issued by the Trust. Each Purchaser will acquire Interests subject to the Trust Agreement that will govern the terms of the Trust, as well as the rights and obligations of the Beneficial Owners with respect to their investment. The Trust Agreement sets forth the rights and duties of the Beneficial Owners, the Trust, the Manager, the Signatory Trustee (as defined herein), the Delaware Trustee and the Independent Trustee.

Section 1031 Exchange

A tax-deferred exchange (a "**Section 1031 Exchange**") under Section 1031 of the Internal Revenue Code of 1986, as amended (the "**Code**") generally allows the seller of investment and business real property to defer federal and state capital gains taxation on the sale by exchanging certain real property for another real property of like-kind. Acquisition of the Interests is designed for, but not limited to, Purchasers seeking to participate in a Section 1031 Exchange. The Trust has not requested, and does not plan to request, a private letter ruling from the Internal Revenue Service (the "**IRS**") that the Interests will be treated as a direct acquisition of the Property by the Purchasers for purposes of Code Section 1031. However, tax counsel to the Trust has provided a tax opinion that the acquisition of an Interest by a Purchaser should be treated as a direct acquisition of the Property by a Purchaser for purposes of Code Section 1031. This opinion, however, is limited in scope and does not opine on all matters necessary for the prospective Purchaser's acquisition to qualify under Code Section 1031.

"Best Efforts" Offering

This Offering of Class 1 Beneficial Interests issued by the Trust is being made through the Managing Broker-Dealer (as defined herein), on a "best efforts" basis and sold primarily through the broker-dealers participating in the Offering ("**Participating Broker-Dealers**"), who are members of the Financial Industry Regulatory Authority, Inc. ("**FINRA**"). Moreover, the Offering of Class 1 Beneficial Interests issued by the Trust is expected to be made available to clients of registered investment advisers ("**RIAs**" and each of the Participating Broker-Dealers and RIAs, a "**Selling Group Member**") and other market participants who may be exempt from the registration obligations imposed under the Investment Advisers Act of 1940, as amended (the "**Advisers Act**"). The Trust, in its sole and absolute discretion, may cancel or modify this Offering, reject purchases of Interests in whole or in part, waive conditions to the purchase of Interests, and allow investments in increments smaller than the minimum purchase amount.

Proceeds received from any Purchasers pursuant to accepted subscriptions for Interests will be held at UMB Bank. The Sponsor anticipates conducting closings at such times as it determines in its sole and absolute discretion (each, a "**Closing**" and the first such Closing, the "**Initial Closing**"). The Sponsor may hold the Initial Closing at any

time after one or more subscriptions of Interests have been processed. Subsequent to the Initial Closing, the remaining Interests, if any, will continue to be sold and additional Closings may be thereafter conducted on a periodic basis in accordance with the Offering documents until the Maximum Offering Amount (as defined herein) of Interests is sold or, if earlier, until March 31, 2027 (the "**Offering Termination Date**"). The Offering Termination Date may be extended at the Manager's sole and absolute discretion. *See "Plan of Distribution."* Notwithstanding the foregoing, in no event will the number of initial record holders of Interests exceed the threshold for registration under Section 12(g) of the Securities Exchange Act of 1934 (the "**Exchange Act**") or any successor provision.

Financing and Reserves

To acquire the Property, the Trust obtained the Loan from the Lender pursuant to the terms of that certain Loan Agreement; Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing; Promissory Note; Assignment of Leases and Rents; Assignment of Assignment of Leases and Rents; Assignment and Subordination of Master Lease and Consent of Master Tenant; Borrower's Certification; Environmental Indemnity Agreement; Cash Management Agreement; Conditional Assignment of Management Agreement; Guaranty of Recourse Obligations; and additional loan documents (collectively, the "**Loan Documents**"), entered into as of the Acquisition. The Trust established (and directs) a reserve for costs and expenses associated with the Property, in the amount of $300,000 (the "**Supplemental Trust Reserve**"), which was funded from Loan proceeds. The Trust further expects to deposit into the Supplemental Trust Reserve 5% of the Property's net operating income per year, starting on the third anniversary of the Acquisition, for future capital expenditures.

The Loan Documents required the Trust to establish a replacement reserve account (the "**Replacement Reserve**") and an immediate repair reserve account (the "**Immediate Repair Reserve**"). The minimum upfront contributions to the Replacement Reserve and Immediate Repair Reserve of $1,862,684 and $0, respectively, were funded at the Acquisition from Loan Proceeds, as required under the Loan Documents. In addition, at the Acquisition, the Lender required initial contributions in escrow of $41,072 for real estate taxes (the "**Tax Reserve**"), $50,000 in a deductible gap account (the "**Deductible Gap Reserve**"), and $50,150 in a radon mitigation reserve (the "**Radon Reserve**"), all of which were funded from Loan proceeds. Finally, pursuant to the authority granted under the Trust Agreement, the Trust established (and controls) a reserve funded from the Loan Proceeds for the Trust's working capital and other operating expenses, in the amount of $832,800 (the "**DST Working Capital Reserve**"). The Loan Documents provide for a $35,805,000 Loan with a 10-year term and require interest-only payments at a fixed rate equal to 6.098% per annum. On a fully loaded basis, the loan to capitalization ("**LTC**") ratio is 47.1%. As long as the Loan remains outstanding, the Trust will have an Independent Trustee in compliance with the Loan Documents. The Loan is "non-recourse" to the Trust except for standard non-recourse carve outs contained within the Loan Documents. Purchasers will not be required to execute personal guaranties or an environmental indemnity agreement in favor of the Lender.

In connection with the Loan, the Lender obtained an appraisal for the Property prepared by CBRE, Inc. (the "**Appraiser**"), dated February 13, 2026 (the "**Appraisal**"), reflecting a market value, "As Is" for the Property of $65,200,000. The total aggregate purchase price of $71,765,150 for the Property (including costs and fees) is lower than the $75,983,939 aggregate purchase price of the Interests, which includes $40,178,939 in equity for the Interests, assuming the Maximum Offering Amount (as defined herein) is sold, and $35,805,000 for the Loan.

An investment in an Interest is highly speculative and involves substantial risks including, but not limited to:

- this is a "best efforts" offering with no minimum raise or minimum escrow requirements;
- the lack of liquidity and/or public market for the Interests;
- the holding of a beneficial interest in the Trust with no voting rights with respect to the management or operations of the Trust or in connection with the sale of the Property;
- risks associated with owning, financing, operating and leasing a student housing complex and real estate generally in West Virginia, and more specifically the Morgantown Metropolitan Statistical Area;
- risks associated with the FMV Option (as defined herein);
- risks associated with general market fluctuations such as recessions (global or local), the impact of pandemics (including the COVID-19 pandemic), and other systemic market or economic fluctuations of the communities in which the Property exists;
- the Trust depends on the Master Tenant for revenue, and the Master Tenant depends on the end-user tenants for revenue and thus any default by the Master Tenant or the end-user tenants will adversely affect the Trust's operations;

- performance of the Master Tenant under the Master Lease, including the potential for the Master Tenant to defer a portion of rent payable under the Master Lease;
- reliance on the Master Tenant, the Property Manager and the Manager (as defined herein) engaged by the Master Tenant, to manage the Property;
- risks associated with DST Holdings (as defined herein) funding the Demand Note (as defined herein) that capitalizes the Master Tenant;
- risks relating to the terms of the financing for the Property, including the use of leverage;
- lack of diversity of investment;
- the existence of various conflicts of interest among the Sponsor, the Trust, the Master Tenant, the Manager, and their affiliates;
- material tax risks, including treatment of the Interests for purposes of Code Section 1031 and the use of exchange funds to pay acquisition costs, which may result in taxable boot;
- the Interests not being registered with the Securities and Exchange Commission (the "**SEC**") or any state securities commissions;
- risks relating to the costs of compliance with laws, rules and regulations applicable to the Property;
- risks related to competition from properties similar to and near the Property; and
- the possibility of environmental risks related to the Property.

You must carefully consider the risk factors beginning on page 17 of this Memorandum. Neither the SEC nor any state securities commission has reviewed, approved or disapproved of this Memorandum or the Interests, nor have they passed upon the accuracy or adequacy of the information set forth in this Memorandum. Any representation to the contrary is a criminal offense.

For purposes of this Memorandum, various fees have been calculated based on the sale of 100% of the Interests, equivalent to $40,178,939 (the "**Maximum Offering Amount**").

	Cash Price To Purchasers	**Sales Commissions and Expenses[(1)]**	**Proceeds to the Trust[(2)]**
Per 0.249% Interest (minimum purchase for Section 1031 investors)[(3)]	$100,000.00	$10,500.00	$89,500.00
Per 0.062% Interest (minimum purchase for cash investors)[(4)]	$25,000.00	$2,625.00	$22,375.00
Maximum Offering Amount	$40,178,939	$4,218,789	$35,960,150

The date of this Memorandum is March 23, 2026

(1) Orchard Securities, LLC, a member of FINRA, will serve as Managing Broker-Dealer for the Offering (the "**Managing Broker-Dealer**"). The Managing Broker-Dealer will receive: (a) sales commissions of up to 6% of the purchase price of the Interests sold (the "**Sales Commissions**") in the Offering by Participating Broker-Dealers ("**Total Sales**"), which the Managing Broker-Dealer will re-allow to the applicable Participating Broker-Dealers; (b) a placement fee of up to 2% of the Total Sales (the "**Managing Broker-Dealer Fee**"); (c) marketing and due diligence expense allowances of up to 1% of the Total Sales for non-accountable due diligence and marketing expenses (the "**Marketing and Due Diligence Expense Allowances**"), which the Managing Broker-Dealer may re-allow in whole or in part to the Participating Broker-Dealers; and (d) a fee for wholesaling services of up to 1% of the purchase price of each Class 1 Beneficial Interest (the "**Wholesaling Fee**"). The Manager will be entitled to reimbursement for expenses incurred in connection with the Offering, on a non-accountable basis, of 0.5% of the Maximum Offering Amount, including, but not limited to, the costs of organizing the Trust and other entities, estimated marketing, legal, finance, accounting, and printing fees and expenses incurred in connection with this Offering (the "**Organization and Offering Expenses**"). *See "Compensation and Fees."* Accordingly, the total aggregate amount of Sales Commissions, Managing Broker-Dealer Fee, Marketing and Due Diligence Expense Allowances, Wholesaling Fee, and Organization and Offering Expenses (collectively, "**Sales Commissions and Expenses**") will not exceed 10.5% of the Total Sales. The Trust may, in its sole and absolute discretion, accept purchases of Interests net of all or a portion of the Sales Commissions and Expenses. *See "Plan of Distribution" and "Estimated Use of Proceeds."*

(2) The Trust is offering a maximum of $40,178,939 of Interests, which, if sold in full, will represent 100% of the outstanding Interests issued by the Trust at the end of the Offering. The proceeds shown are after deducting Sales Commissions and Expenses, but before deducting fees and expenses incurred in connection with the Acquisition, including those payable to the Sponsor and its affiliates. *See "Estimated Use of Proceeds" and "Compensation and Fees."*

(3) The minimum purchase price for Section 1031 investors of $100,000 and deemed debt assumption of $89,114 represents a 0.249% ownership interest in the Trust. The Trust may waive the minimum purchase requirement in its sole and absolute discretion.

(4) The minimum purchase price for cash investors of $25,000 and deemed debt assumption of $22,278 represents a 0.062% ownership interest in the Trust. The Trust may waive the minimum purchase requirement in its sole and absolute discretion.

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POTENTIAL PURCHASERS SHOULD CAREFULLY CONSIDER THE FOLLOWING:

Do not construe the contents of this Memorandum as legal financial or tax advice. Consult your own independent counsel, accountant or business advisor as to legal, financial, tax and related matters concerning an investment in Interests. None of the Trust, the Sponsor, nor any of their affiliates makes any representation or warranty of any kind with respect to the acceptance by the IRS or any state taxing authority of your treatment of any item on your tax return or the tax consequences if you are investing in Interests as part of a Section 1031 Exchange.

Each prospective Purchaser should note that the Trust, the Sponsor and their affiliates make no representation or warranty of any kind regarding the suitability of an investment in the Interests by a prospective Purchaser. Further, each prospective Purchaser will be required to acknowledge and agree that it has not relied upon any investment advice or recommendation of the Trust, the Sponsor or any of their affiliates as a basis for the decision to invest in the Interests. Accordingly, each prospective Purchaser should examine the suitability of this type of investment in the context of its own needs, purchase objectives, and financial capabilities and should make its own independent investigation and decision as to suitability and as to the risk and potential gain involved.

Neither the Trust, the Sponsor, nor any of their respective affiliates has authorized any person to make any representations or furnish any information with respect to the Interests or the Property, other than as set forth in this Memorandum or other documents or information the Trust or the Sponsor may furnish to you upon request. You are encouraged to ask the Trust or the Sponsor questions concerning the terms and conditions of this Offering and the Property.

The delivery of this Memorandum does not constitute an offer, or solicitation of an offer, to purchase an Interest to anyone in any jurisdiction in which such an offer or solicitation is not authorized.

The Sponsor has prepared this Memorandum solely for the benefit of persons interested in acquiring Interests. You may not reproduce or distribute this Memorandum, in whole or in part, or disclose any of its contents without the prior written consent of the Trust or the Sponsor. You agree, by accepting delivery of this Memorandum, that, upon the request of the Trust or the Sponsor, you will immediately return this Memorandum to the Sponsor along with all other documents provided to you in connection with the Offering if you do not purchase any of the Interests or if the Offering is withdrawn or terminated.

This Memorandum contains summaries of certain agreements and other documents. While the Sponsor believes these summaries are accurate, you should refer to the actual agreements and documents for more complete information about the rights, obligations and other matters in the agreements and documents. The Sponsor will make the agreements and documents relating to this investment available to you and/or your advisors upon request, if such requested agreements and documents are readily available to the Sponsor.

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A WARNING ABOUT FORWARD-LOOKING STATEMENTS

This Memorandum contains statements about operating and financial plans; terms and performance of the Property; regulatory, compliance and litigation; and other projections of future results. Forward-looking statements may be identified by the use of words such as "expects," "anticipates," "intends," "plans," "will," "may" and similar expressions. The "forward-looking" statements are based on various assumptions, for example, the growth and expansion of the economy, projected financing environment and real property market value trends, regulatory enforcement, and third party behavior, and these assumptions may prove to be incorrect. Accordingly, while the Sponsor believes these assumptions to be reasonable under the circumstances existing at the time they were made, such forward-looking statements might not accurately predict future events or the actual performance of an investment in the Interests. Factors that could cause forward-looking statements to be incorrect include changes in the economy or the markets where we operate, developments in litigation, changes in regulatory frameworks, and other factors discussed more completely in the risk factors section of this Memorandum. In addition, you must disregard any projections and representations, written or oral, which do not conform to those contained in this Memorandum.

MARKET DATA

The market data and forecasts used in this Memorandum were obtained from independent industry sources as well as from research reports prepared for other purposes. Neither the Trust, the Sponsor, nor their affiliates have independently verified the data obtained from these sources and they cannot assure you of the accuracy or completeness of the data. Forecasts and other forward-looking information obtained from these sources are subject to the same qualifications and the additional uncertainties regarding the other forward-looking statements in this Memorandum.

All brand names, trademarks, service marks, and copyrighted works appearing in this Memorandum are the property of their respective owners. This Memorandum may contain references to registered trademarks, service marks, and copyrights owned by third party information providers. None of the third party information providers is endorsing the offering of, and will not in any way be deemed an issuer or underwriter of, the Interests, and will not have any liability or responsibility for any statements made in this Memorandum or for any financial statements, financial projections or other financial information contained in, or attached as an exhibit to, this Memorandum.

NOTICE TO PURCHASERS IN ALL STATES

The Interests are being offered only to persons who are "accredited investors" as that term is defined in Rule 501(a) promulgated under the Securities Act of 1933, as amended (the "**Securities Act**"), and applicable state securities laws.

The Interests will not be registered under the Securities Act or the securities laws of any state. We will offer and sell the Interests in reliance on exemptions from the registration requirements of these laws. The Interests will be subject to restrictions on transferability and resale and you will not be able to transfer or resell Interests or any beneficial interest therein unless the Interests are registered pursuant to or exempted from such registration requirements. You must be prepared to bear the economic risk of an investment in the Interests for an indefinite period of time and be able to withstand a total loss of your investment.

The securities laws of certain jurisdictions grant purchasers of securities sold in violation of the registration or qualification provisions of such laws the right to rescind their purchase of such securities and to receive back the consideration paid. We believe that the Offering described in this Memorandum is not required to be registered or qualified. Many of these laws granting the right of rescission also provide that suits for such violations must be brought within a specified time, usually one year from discovery of facts constituting such violation. Should any Purchaser institute an action claiming that the Offering conducted as described herein was required to be registered or qualified, the contents of this Memorandum will be deemed to constitute notice of the facts of the alleged violation.

PROSPECTIVE PURCHASERS ARE HEREBY NOTIFIED THAT: ANY DISCUSSION OF FEDERAL INCOME TAX ISSUES CONTAINED OR REFERENCED IN THIS MEMORANDUM IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING BY THE TRUST OF THE TRANSACTIONS OR MATTERS ADDRESSED IN THIS MEMORANDUM. PROSPECTIVE PURCHASERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

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APPENDIX I: FINANCIAL FORECAST

The following additional documents are available in the Digital Investor Kit:

- Appraisal
- Asset Management Agreement
- A&R Trust Agreement
- Construction Management Agreement
- Demand Note
- Form of Residential Lease
- Loan Documents
- Master Lease Agreement
- Methane Survey Letter Report
- Phase I Environmental Site Assessment
- Pro Forma Owner's Title Policy
- Property Condition Report
- Property Condition Report Reliance Letter
- Property Management Agreement
- Radon Survey Report
- Settlement Statement
- Survey
- Zoning Report

THE DOCUMENTS THAT ARE AVAILABLE IN THE DIGITAL INVESTOR KIT ARE IMPORTANT FOR PURPOSES OF EACH PROSPECTIVE PURCHASER'S REVIEW. IF YOU ARE NOT ABLE TO ACCESS THE DIGITAL INVESTOR KIT, PLEASE CONTACT FORTRESS IMMEDIATELY.

SUMMARY OF THE OFFERING

The following summary provides selected limited information regarding the Offering and should be read in conjunction with, and is qualified in its entirety by, the more detailed information appearing elsewhere in this Memorandum. You should read this entire Memorandum, including "Risk Factors," before making a decision to invest in an Interest. In this Memorandum, unless the context suggests otherwise, references to "we," "us" and "our" mean the Trust and the Sponsor and, where the context permits, its affiliates that may provide services in connection with the Offering, management of the Trust, and acquisition, financing, leasing, management and disposition of the Property.

The Interests

We are offering to "accredited investors" up to $40,178,939 in Class 1 Beneficial Interests issued by the Trust, which is the owner of the Property (the Beneficial Owners are owners of such Interests, along with the Depositor). The Interests being sold in this Offering will represent 100% of the outstanding beneficial interests issued by the Trust if the Maximum Offering Amount of Interests is sold. The Interests represent ownership, for federal income tax purposes, of the Property. The minimum purchase price for Code Section 1031 investors is $100,000, which represents a 0.249% beneficial ownership interest in the Trust. The minimum purchase price for cash investors is $25,000, which represents a 0.062% beneficial ownership interest in the Trust. Although Purchasers will not assume any liability for the Loan, for purposes of determining liabilities assumed for federal income tax purposes (including in connection with a Section 1031 Exchange), each Purchaser should be deemed to have assumed $89,114 of mortgage debt for each 0.249% beneficial ownership interest in the Trust that they acquire. The price of an Interest will include a *pro rat*a portion of the value of the Property, Sales Commissions and Expenses, Closing Costs (as defined herein), the Acquisition Fee, the Financing Fee, the Replacement Reserve, the Immediate Repair Reserve, the Supplemental Trust Reserve, the Tax Reserve, the Deductible Gap Reserve, the Radon Reserve, and the DST Working Capital Reserve. *See "Estimated Use of Proceeds" and "Compensation and Fees."*

Investment Objectives and Risks

The Sponsor's business plan for the Property and its investment objectives for the Interests, will be to (i) preserve the Purchasers' capital investment, (ii) make monthly distributions estimated to start at 5.00% annualized for Year 1, and projected to range from 5.48% to 7.69% annualized from Year 2 through Year 10, and (iii) sell the Property at a profit within approximately five to ten years. *See "Business Plan."* There is no guarantee that the objectives will be successfully achieved, that the Property's value will be maintained or enhanced, or that the Property will be sold within the planned time period. An investment in the Interests involves substantial risks. *See "Risk Factors."*

The Property

The Property is located at 5000 Domain Drive, Morgantown, West Virginia 26501, known as "Domain at Town Centre." The Property is situated on an irregular-shaped land parcel totaling approximately 93.61 acres situated on the east side of the intersection of Mountaineer Dr. and Domain Dr. While not a provider of university-sanctioned housing, the Property is located approximately one mile west of the WVU campus. Morgantown is located in northern West Virginia, and the Property is located approximately three miles northwest of downtown Morgantown.

The Property is a residential student housing facility comprising 14 apartment buildings, one clubhouse, and two maintenance buildings originally constructed in 2012. According to the Zoning Report (as defined herein), the Property has a total of 976 parking spaces located throughout the Property, including 17 designated handicap spaces.

The Buildings consist of a total of 336 Dwelling Units, comprising 48 one-bedroom Dwelling Units, 120 two-bedroom Dwelling Units, 48 three-bedroom

	Dwelling Units and 120 four-bedroom Dwelling Units that provide a total net leasable floor area of approximately 365,252 square feet. As of March 2026, the Dwelling Units were approximately 93% leased to the Residents. As of March 12, 2026, the Property was approximately 73% pre-leased for the 2026/2027 Academic Year
Depositor and the Acquisition of the Property	The Trust acquired the Property from Seller at the Acquisition on March 11, 2026, for total consideration of $65,100,000. Prior to the Acquisition, the Trust entered into the PSA. On March 11, 2026, the Trust completed the Acquisition with proceeds derived from: (i) proceeds from the Depositor Loan, and (ii) proceeds from the Loan from the Lender. In connection with the formation of the Trust and the foregoing transactions, the Trust issued all of the Class 2 Beneficial Interests to the Depositor. At the time of the Acquisition, the Trust incurred the obligation to pay the Manager an Acquisition Fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property and a Financing Fee in an amount up to 0% of the gross proceeds of the Loan evidenced by the Loan Documents.
The Sponsor and the Master Tenant	The Offering is sponsored by Fortress Real Estate Exchange LLC, a Delaware limited liability company. Concurrently with the Acquisition, the Trust master leased the Property to the Master Tenant pursuant to the Master Lease. The Master Tenant is managed by FREX DST Holdings LLC, a Delaware limited liability company ("**DST Holdings**"), which is a wholly-owned subsidiary of DBSO. The Master Lease is subject to the existing occupant leases with end-user tenants who sublease the Property from the Master Tenant. A copy of the Master Lease is attached to this Memorandum as **Exhibit A**.
The Trust	Each Purchaser will acquire Class 1 Beneficial Interests issued by the Trust subject to the terms of the Trust Agreement and the Purchase Agreement (as defined herein), and will thereupon become a Beneficial Owner of the Trust. The Trust Agreement will govern the rights and obligations of the Beneficial Owners with respect to the Trust. A copy of the Trust Agreement is attached to this Memorandum as **Exhibit B**. The Trust has two classes of Interests: (1) the Class 1 Beneficial Interests; and (2) the Class 2 Beneficial Interests. In connection with the formation of the Trust and the Acquisition of the Property, the Trust issued to the Depositor all of the Class 2 Beneficial Interests, which initially constitutes 100% of the issued and outstanding beneficial interests issued by the Trust. Pursuant to this Offering, the Trust is offering Class 1 Beneficial Interests for sale to prospective Purchasers. As Class 1 Beneficial Interests are sold to Purchasers, the Depositor's Class 2 Beneficial Interests will be redeemed by the Trust on a one-for-one basis until the Maximum Offering Amount has been achieved and all Class 1 Beneficial Interests have been sold. The net proceeds of the sale of Class 1 Beneficial Interests will be used by the Trust, in accordance with the Trust Agreement. The Trust may and will retain and utilize any net proceeds to fund any reimbursements, compensation and fees owed to the Sponsor and/or its affiliates in connection with the Offering. With regard to the foregoing, the term "net proceeds" from the sale of Class 1 Beneficial Interests will be equal to the purchase price of each Class 1 Beneficial Interest, *less* the Sales Commissions and Expenses allocable to each such sale. *See "Estimated Use of Proceeds" and "Compensation and Fees."* The Manager may, in its sole and absolute discretion, appoint from time to time a co-trustee (the "**Signatory Trustee**", and, collectively with the Delaware

Trustee and the Independent Trustee, the "**Trustees**") to serve with the Delaware Trustee and the Independent Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of the Trust. The Manager has appointed itself as the initial Signatory Trustee of the Trust.

FMV Option

The Manager, its affiliates, successors or assigns (the "**Option Holder**") may offer the Beneficial Owners the opportunity to sell their Interests to one or more entities organized or identified by the Sponsor (each, an "**Exchange Entity**") for cash (the "**FMV Option**"). The purchase price payable in cash to any Beneficial Interest (the "**Cash Value**") will equal the then fair market value of such Beneficial Owner's whose Interests are acquired for cash as of the date the FMV Option is exercised, *less*, solely with respect to such Beneficial Owner, a 2.5% cash redemption fee (the "**Cash Redemption Fee**"), which Cash Redemption Fee will be remitted to the Manager, *provided*, *however*, that the Manager may reallow a portion of the Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee will be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. The foregoing notwithstanding, the Option Holder may alternatively present each Beneficial Owner the option but not the obligation to receive units of an equal aggregate value to the Cash Value ("**Units**") of such Beneficial Owner's Interests, as of the date the FMV Option is exercised (in lieu of the Cash Value), in each case pursuant to a transaction (an "**Exchange**") intended to qualify as a tax-deferred exchange under Code Section 721. Any such election by a Beneficial Owner to receive either the Cash Value or Units will apply to all of such Beneficial Owner's Interests subject to the FMV Option, and no Beneficial Owner may elect to receive cash with respect to a portion of its Interests and Units with respect to the remainder. For the avoidance of doubt, no Cash Redemption Fee will be charged, imposed, or deducted in connection with any Exchange in which a Beneficial Owner chooses to receive Units in lieu of cash, and the value of such Units will be determined without regard to the Cash Redemption Fee. For the avoidance of doubt, if the Option Holder offers Beneficial Owners the opportunity to exchange their Interests for Units in connection with the exercise of the FMV Option, such Exchange will always be at the option of each Beneficial Owner, and in no event will Beneficial Owners be required to exchange their Interests for Units.

In order to exercise the FMV Option, the Option Holder will provide each Beneficial Owner with a Notice of Exchange, the form of which is attached as an exhibit to the Trust Agreement. If a Beneficial Owner elects to have the Option Holder exchange the Beneficial Owner's Interests issued by the Trust for Units, such Beneficial Owner will be required to notify the Option Holder in writing within 20 Business Days (as defined in the Trust Agreement) after the date on which the Option Holder mails the Notice of Exchange to such Beneficial Owner (the "**Unit Notice**"). If such Beneficial Owner does not provide a Unit Notice to the Option Holder within 20 Business Days after the mailing date of the Notice of Exchange, such Beneficial Owner will be deemed to have irrevocably elected to receive cash consideration pursuant to the exercise of the FMV Option contained in the Trust Agreement.

The fair market value of a Beneficial Owner's Interests will be determined by multiplying: (i) the Beneficial Owner's percentage of Interests issued by the Trust, by (ii) the fair market value of the Property, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion; *provided*, that such appraisal shall have been completed within 60 days of the

date the FMV Option is exercised. If a Beneficial Owner does not so elect to have its Interests purchased for Units, it will receive cash in an amount equal to the Cash Value, based upon the then-fair market value of the Beneficial Owner's Interests issued by the Trust. For the avoidance of doubt, each Beneficial Owner's election to receive the Units (or receive Cash Value) will be made individually and independently of the elections of other Beneficial Owners.

Should the Manager exercise the FMV Option, any Beneficial Owner will no longer have a direct interest in the Trust. If a Beneficial Owner becomes a holder of Units, such Units will be subject to the terms of the applicable Exchange Entity's operating agreement (each, an "**Operating Agreement**"). In addition, if and after the FMV Option is exercised, a Beneficial Owner will not be able to engage in a subsequent, individual Section 1031 Exchange. Furthermore, a Beneficial Owner's ability to sell its Units or shares in the Exchange Entity may be impacted due to the general volatility of the capital markets, the risks associated with the market, and the limited market for Units. *See "Summary of the Trust Agreement."*

Management of the Trust

FREX Manager Series I LLC serves as the Manager of the Trust. The Manager has the power and authority to manage substantially all of the affairs and limited investment activities of the Trust, the primary responsibility for performing administrative actions in connection with the operations of the Trust, and the sole power to determine when it is appropriate to sell the Property, all of such power and authority limited to the extent such powers and authority are materially consistent with the powers and authority conferred upon the trustee in Revenue Ruling 2004-86. The Manager is managed by the Sponsor, which is ultimately managed by senior members of Fortress's management team. *See "Management."*

The Trust will terminate upon the first to occur of (i) the sale of the Property or (ii) a Transfer Distribution (as defined herein). The Manager will sell all of the Trust's right, title and interest in and to the Master Lease and the end-user leases, the Property and any and all other property and assets (the "**Trust Estate**") upon its determination (in its sole and absolute discretion) that the sale of the Trust Estate is appropriate; *provided*, *however*, that absent unusual circumstances, it is currently anticipated that the Trust will hold the Trust Estate for at least two years. Any such sale of the Trust Estate will occur as soon as practicable after the Manager has determined that the sale of the Trust Estate is appropriate and in such manner as the Manager determines to be in the best interests of the Trust.

For purposes of this Memorandum, a "**Transfer Distribution**" will be deemed to occur in the event the Manager determines that the Master Tenant is insolvent or has defaulted in paying rent, that the Trust Estate is in jeopardy of being lost due to a default or imminent default on the Loan, or in certain other circumstances, and the Manager further determines to transfer title to the Property to a newly-formed Delaware limited liability company (the "**Springing LLC**") and terminate the Trust. If the Trust is terminated pursuant to a Transfer Distribution, the Beneficial Owners will become members in the Springing LLC, and the Manager, or an entity controlled by the Manager, will become the manager of the Springing LLC. *See "Summary of the Trust Agreement."*

Master Lease

The Trust master leased the entirety of the Property to the Master Tenant under the Master Lease. The Master Tenant will operate the Property pursuant to a Master Lease and its subleases with the end-user tenants of the Property. The Master Lease is, with certain exceptions regarding Landlord Costs (as defined herein), a "net" lease, allocating to the Master Tenant all expenses associated with the Property. Real estate taxes and property insurance are funded by the Master Tenant through monthly payments based on projected amounts and

reconciled on an annual basis, and that the Trust may procure insurance or remit payments for taxes or insurance as an administrative or lender-required convenience using Master Tenant funds.

Pursuant to the Master Lease, except for Landlord Costs (as defined below), the Master Tenant is solely responsible, at its own cost and expense, for the condition, operation, repair, replacement, maintenance, and management of the Property (including the costs associated with any property management services), and is required to maintain the Property in substantially the same condition as of the commencement of the Master Lease, ordinary wear and tear excepted. Notwithstanding the foregoing, the Trust is obligated under the Master Lease to fund or reimburse the Master Tenant solely for the expenses and costs of specified capital expenditures and other landlord-level costs, consisting of: (1) repairs and replacements of the structure, foundations, roofs, exterior walls, parking lots and improvements to meet the needs of tenants; (2) leasing commissions; (3) certain hazardous substances costs; (4) any repairs identified in the property condition report or similar engineering report prepared in connection with the acquisition of the Property; (5) other improvements or replacements to the Property required by law or having a useful life of over one year; and (6) other improvements or replacements with respect to the Property to the extent the cost thereof is permitted to be funded from the Loan proceeds or reserves under the Loan Documents (collectively, "**Landlord Costs**"). The Master Tenant may also have access to certain reserves established by the Trust, including the Supplemental Trust Reserve and the Replacement Reserve (to the extent available and permitted under the Master Lease and applicable Loan Documents), to meet its obligations.

The Master Lease commenced concurrently with the Acquisition, and will continue for a base term expiring on Maturity Date (as defined in the Loan Agreement), unless sooner terminated pursuant to the terms of the Master Lease.

The Master Tenant is a newly-formed Delaware limited liability company capitalized with a non-interest-bearing demand note from DST Holdings in the amount of $1,500,000 (the "**Demand Note**"). Apart from the foregoing, the Master Tenant does not have other substantial assets except its leasehold interest in the Property under the Master Lease. *See "Risk Factors."*

Pursuant to the Master Lease, the Master Tenant pays to the Trust the following amounts as "**Rent**" on a monthly basis: (1) an amount equal to "**Base Rent**" as shown below and as set forth in the Master Lease; (2) the amount by which the gross revenues exceed the Additional Rent Breakpoint (as defined in the Master Lease and set forth in the table below) up to a maximum annual ceiling ("**Additional Rent**"); and (3) when Base Rent and Additional Rent have been fully paid, an amount equal to 90% of the amount by which annual gross revenues exceed the Supplemental Rent Breakpoint as defined in the Master Lease and set forth in the table below ("**Supplemental Rent**"). In addition to Base Rent, the Master Tenant is responsible for funding real estate taxes and property insurance through separate monthly payments based on projected amounts, which are reconciled on an annual basis pursuant to the Master Lease. The difference between the Base Rent and the Additional Rent Breakpoint for the Property for a given month, if any, after taking into account any expenses of the Property, will inure to the benefit of the Master Tenant, and will not be available for distributions to the Trust or the Beneficial Owners.

Additionally, the Master Lease sets forth projections for certain uncontrollable costs with respect to the Property (the "**Projected Uncontrollable Costs**"), primarily relating to utilities, weather-related costs, and compliance with governmental requirements (but excluding real estate taxes and insurance). In

the event that the Projected Uncontrollable Costs for any calendar year exceed the actual uncontrollable costs for such calendar year, the Master Tenant would be required to pay the Trust, as additional Rent, the amount of such excess. If, however, the actual uncontrollable costs for any calendar year exceed the Projected Uncontrollable Costs for such calendar year, the Master Tenant would be responsible for the payment of such excess, but would be entitled to a reimbursement by offsetting such amount against Additional Rent payable to the Trust.

If the Master Tenant fails to pay Additional Rent or Supplemental Rent amounts to the Trust despite the Property's operating cash flow for a period exceeding the Additional Rent and/or Supplemental Rent breakpoints provided in the Master Lease (for example, because associated expenses of the Property are substantial during such period), then in such event, the Master Tenant may defer the payment of the applicable portion of the Additional Rent and/or Supplemental Rent due under the Master Lease until cash flow becomes available to pay such shortfall amounts or upon disposition of the Property. In such event, interest will accrue on the deferred rent, if any, in accordance with the terms of the Master Lease.

The following table sets forth the monthly Base Rent and breakpoints and ceilings for the calculation of Additional Rent and Supplemental Rent. *See "Summary of the Master Lease."*

Rent Amounts Pursuant to the Master Lease Agreement

Lease Period	Base Rent	Gross Revenue Additional Rent Breakpoint	Additional Rent Maximum	Gross Revenue Supplemental Rent Breakpoint
Year 1	$2,929,474	$6,368,000	$2,176,000	$8,544,000
Year 2	$2,946,309	$6,547,000	$2,160,000	$8,707,000
Year 3	$2,947,302	$6,669,000	$2,130,000	$8,799,000
Year 4	$2,954,556	$6,777,000	$2,274,000	$9,051,000
Year 5	$2,962,010	$6,885,000	$2,425,000	$9,310,000
Year 6	$2,975,736	$6,999,000	$2,575,000	$9,574,000
Year 7	$2,977,544	$7,108,000	$2,737,000	$9,845,000
Year 8	$2,985,635	$7,228,000	$2,900,000	$10,128,000
Year 9	$2,993,949	$7,348,000	$3,075,000	$10,423,000
Year 10	$3,008,558	$7,481,000	$3,070,000	$10,551,000

If amounts paid or funded by the Master Tenant or the Trust for Rent, taxes, insurance, reserves, or other project-related costs are later determined to differ from the amounts actually due based on final audits, reconciliations, lender statements, or similar determinations, the parties will cooperate in good faith to reconcile such differences so that the correct amounts are paid, credited or offset. Interim payments and deposits may be based on projected amounts determined by the Trust, subject in all cases to final reconciliation based on actual amounts. These reconciliation provisions are intended solely to ensure accurate settlement of amounts and do not alter the underlying economic allocation of responsibility between the parties.

Property Management

In connection with the Acquisition, the Master Tenant entered into the Property Management Agreement with respect to the Property with the Property Manager. The monthly property management fee payable under the Property Management Agreement will be an amount equal to the greater of $10,000 or 3% of the Effective Gross Revenues (as defined in the Property Management Agreement) from the Property (the "**Property Management Fee**"). Additionally, the Master Tenant may, in its discretion, elect to award the

Property Manager with a performance-based incentive fee based on revenue-based or other gross operational metrics in such amount(s) as the Master Tenant may determine. The Master Tenant is solely responsible for all costs associated with property management services. *See "Summary of Property Management Agreement*." The Property Management Agreement is attached to this Memorandum as **Exhibit D**.

Construction Management

Concurrently with the Acquisition, the Master Tenant entered into the Construction Management Agreement with DST Holdings. The construction management fee payable under the Construction Management Agreement will be an amount equal to the greater of (i) 5%, and (ii) such other market-accepted percentage for parties engaging on arm's-length terms, of the construction costs determined on a project-by-project basis with respect to the construction management activities being performed thereunder (the "**Construction Management Fee**"). *See "Summary of Construction Management Agreement*." The Construction Management Agreement is attached to this Memorandum as **Exhibit E**.

Asset Management

The Manager will provide management services to the Trust with respect to the Property, arranged for financing of the Property, will implement all decisions and policies of the Trust, and will oversee and supervise the provision of services by the Property Manager to ensure that the Property Manager is performing in a manner consistent with the terms of the Property Management Agreement; *provided*, that, subject to applicable law, the Manager and its affiliates may provide any services contemplated by the Asset Management Agreement to the Trust or the Beneficial Owners in lieu of engaging a third party provider to deliver such services so long as the compensation received by the Manager and/or its affiliates, as applicable, does not exceed the applicable compensation provided for under the Asset Management Agreement; *provided*, *further*, that any such services are reflected in a budget, as may be amended and supplemented, provided by the Manager and approved by the Trust, or as may otherwise be approved by the Trust.

Financing and Lender-Controlled Reserves

The Trust entered into a Loan in the original principal amount of $35,805,000 from the Lender.

The Loan Documents provide for a $35,805,000 Loan with a 10-year term and require interest-only payments at a fixed rate equal to 6.098% per annum.

The Property is subject to a first mortgage and other standard collateral rights granted in favor of the Lender, to secure the Trust's obligations under the Loan Documents. As long as the Loan remains outstanding, the Trust will have an Independent Trustee in compliance with the Loan Documents. The Loan is "non-recourse" to the Trust except for standard non-recourse carve outs contained within the Loan Documents.

Beneficial Owners in the Trust will not be required to execute personal guarantees for any portion of the Loan and will not incur any personal liability with respect to the operation of the Property or under the Loan Documents, including liability for environmental claims. However, since the Property will secure the Trust's obligations under the Loan, Beneficial Owners could lose their entire investment if the Trust were to default on the Loan and the Lender were to foreclose on the Property. *See "Risk Factors – Risks Relating to Financing of the Property."*

Purchasers of Interests should be deemed for federal income tax purposes, including for purposes of Code Section 1031, to have assumed their *pro rata* portion of the principal amount of the Loan. *See "Federal Income Tax Consequences."*

	The Property is leveraged with an LTC ratio of approximately 47.1%, based on the Maximum Offering Amount for the Interests and the amount of the Loan. Before investing, you should carefully consider the potential liabilities described under *"Acquisition of the Property and Financing Terms"* and the risk factors set forth under *"Risk Factors – Risks Related to Financing of the Property."*
Lender-Required Reserves	As required under the Loan Documents, the Trust established and funded $1,862,684 into the Replacement Reserve and $0 into the Immediate Repair Reserve at the Acquisition. In addition, at the Acquisition, the Lender required initial contributions in escrow of $41,072 into the Tax Reserve, $50,000 into the Deductible Gap Reserve, and $50,150 into the Radon Reserve, all of which were funded from Loan proceeds.
Trust-Directed Reserves and Capital Expenditures	In addition to the Replacement Reserve and the Immediate Repair Reserve, the Trust established and directs the Supplemental Trust Reserve, which was funded from Loan proceeds in the aggregate amount of $300,000, for Property renovations, costs and expenses (including Landlord Costs), which may be drawn upon by the Master Tenant as provided in the Master Lease. The Trust further expects to deposit into the Supplemental Trust Reserve 5% of the Property's net operating income per year, starting on the third anniversary of the Acquisition, for future capital expenditures. Full details are outlined in "*Business Plan."* Finally, pursuant to the authority granted under the Trust Agreement, the Trust established (and controls) the DST Working Capital Reserve in the amount of $832,800.
Purchaser Suitability Requirements	Only subscribers who qualify as "accredited investors" as defined in Rule 501(a) of Regulation D under the Securities Act who also meet certain other requirements as described in the "Who May Invest" section of this Memorandum may acquire Interests pursuant to this Offering. Interests are not suitable investments for qualified plans, individual retirement accounts, tax-exempt entities or Non-U.S. Persons (as defined herein). *See "Who May Invest."* For the purposes of this Memorandum, the term "**U.S. Person**" means (1) an individual citizen or resident of the United States, (2) a corporation or any entity taxable as a corporation created or organized in or under the laws of the United States, any state or political subdivision thereof or the District of Columbia, (3) an estate the income of which is subject to federal income taxation regardless of its source, and (4) a trust if (i) it is subject to the primary supervision of a U.S. Court and one or more U.S. Persons have the authority to control all substantial decisions of the trust, or (ii) that has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. Person. *See "Who May Invest."* Prospective Purchasers who are partnerships for federal income tax purposes, or that invest in the Interests through a partnership for federal income tax purposes, should consult with their tax advisors regarding the tax consequences to them. *See "Who May Invest."* For the purposes of this Memorandum, the term "**Non-U.S. Person**" means an individual or an entity that is not a U.S. Person.
Plan of Distribution	The Managing Broker-Dealer, by and through the Participating Broker-Dealers, will make offers and sell Interests on a "best efforts" basis. The commissions and expense reimbursements to the Managing Broker-Dealer and Participating Broker-Dealers are described in *"Estimated Use of Proceeds"* and *"Plan of Distribution"* below.
Closings	There is no minimum escrow requirement in this Offering, and the Sponsor can hold the Initial Closing at any time after one or more subscriptions for Interests have been accepted by the Trust. Thereafter, the Sponsor will hold periodic Closings on a rolling basis every business day.

Offering Termination Date	The Interests will be offered until the earlier of the date the Maximum Offering Amount is attained, or March 31, 2027. If any Interests issued by the Trust cannot be sold, the Depositor or its affiliate will own the remaining Interests. The Offering Termination Date may be extended at the Manager's sole and absolute discretion. The Depositor or its affiliate will hold the Interests for investment purposes and not for resale.
Offers to Purchase Interests	To offer to buy an Interest, you must follow the instructions set forth in *"Method of Purchase"* below. The Trust may accept or reject a prospective Purchaser's Purchase Agreement in its sole and absolute discretion. If the Trust does not accept a Purchase Agreement within 30 days of its submission, then it will be deemed rejected. In the event a Purchase Agreement is rejected, the full amount of any check or wired funds you have sent will be returned to you. Any Prospective Purchaser seeking to acquire greater than 20% of the Maximum Offering Amount (i.e., $8,035,788) will be subject to additional Know Your Customer procedures as required by the Lender pursuant to the Loan Documents.
Compensation to Sponsor and its Affiliates	The Sponsor and its affiliates will receive substantial compensation and fees from the sourcing, structuring, due diligence and completion of the Acquisition of the Property, and in connection with the Offering and sale of Interests, and the management, financing, leasing, operation and disposition of the Property (including upon exercise of the FMV Option), which may include, but are not limited to, rents from the Property in excess of the amounts the Master Tenant is required to pay to the Trust under the Master Lease, the Acquisition Fee, the Disposition Fee and the Financing Fee (as defined herein). *See "Compensation and Fees."*
Reports	The Manager will periodically prepare and furnish reports to each of the Beneficial Owners commensurate with similarly-situated investment vehicles. Such reports will include the amounts of rent received from the Master Tenant, the expenses incurred by the Trust with respect to the Property (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses), the amount of any reserves, and the amount of the distributions made by the Trust to the Beneficial Owners. In addition, the Trust will send to each Beneficial Owner such tax information as the Manager deems appropriate to assist the preparation of the Beneficial Owner's tax returns. *See "Reports."*
Federal Income Tax Consequences	In connection with the Offering, we have obtained from our tax counsel, Baker & McKenzie LLP ("**Tax Counsel**"), a legal opinion (the "**Tax Opinion**") stating that: • the Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a); • the Beneficial Owners should be treated as "grantors" of the Trust; • as "grantors," the Beneficial Owners should be treated as owning an undivided fractional interest in the Property for federal income tax purposes; • the Interests should not be treated as securities for purposes of Section 1031; • the Interests should not be treated as certificates of trust or beneficial interests for purposes of Section 1031; • the Master Lease should be treated as a true lease and not a financing for federal income tax purposes; • the Master Lease should be treated as a true lease and not a deemed partnership for federal income tax purposes;

- the discussions of the federal income tax consequences contained in this Memorandum are correct in all material respects; and
- certain judicially created doctrines should not apply to change the foregoing conclusions.

A copy of the Tax Opinion is attached hereto as **Exhibit F** to this Memorandum.

The opinion is written to support the promotion or marketing of the Offering, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor.

Each Beneficial Owner must report their proportionate share of taxable income or loss on their own federal income tax return. For a more complete discussion of the tax consequences of ownership of Interests, *see "Federal Income Tax Consequences."*

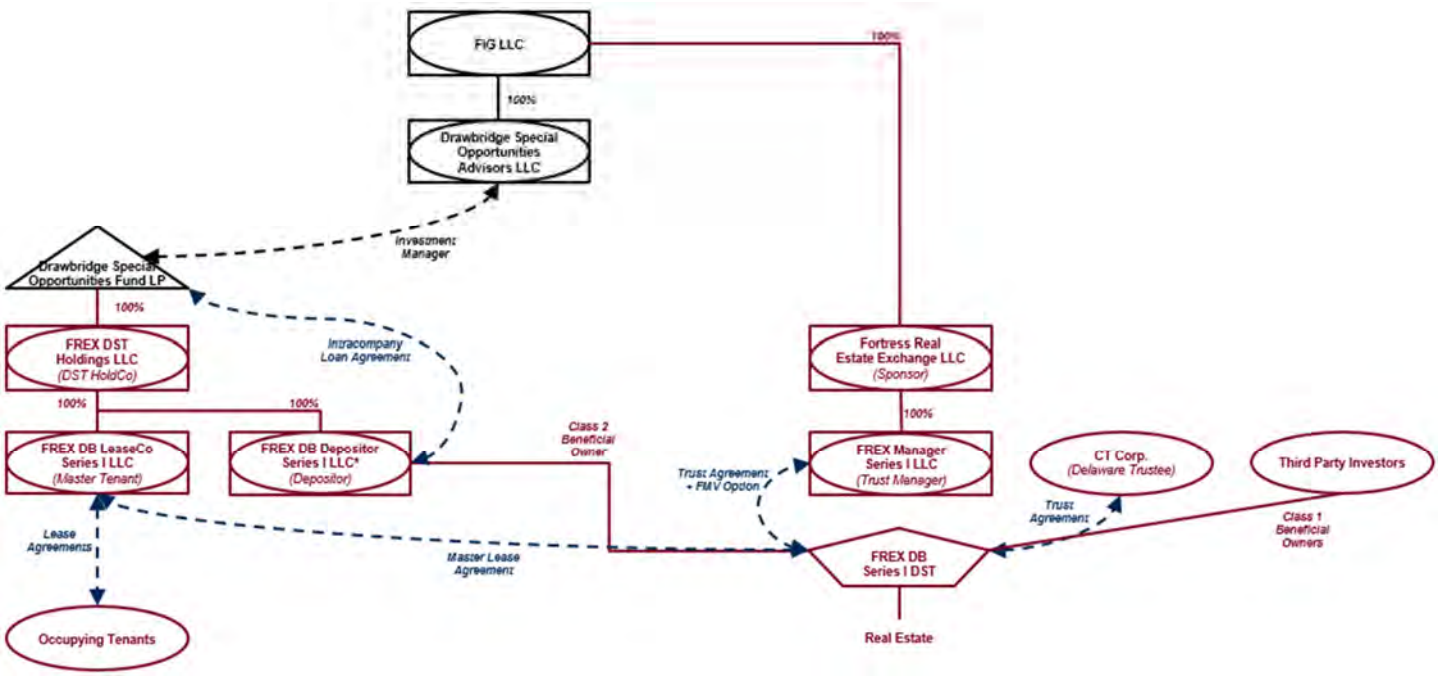
Each Purchaser must consult with their tax advisor concerning the identification requirements under Code Section 1031 and other requirements for successfully completing a qualifying like-kind exchange under Code Section 1031.

THE PURCHASERS WILL ACQUIRE THEIR INTERESTS WITHOUT ANY REPRESENTATIONS OR WARRANTIES FROM THE TRUST, THE SPONSOR, THE MANAGER OR ANY OF THEIR AFFILIATES OR REPRESENTATIVES, AGENTS, OR COUNSEL REGARDING THE TAX IMPLICATIONS OF THE TRANSACTION. EACH PURCHASER MUST CONSULT THEIR OWN INDEPENDENT ATTORNEYS, ACCOUNTANTS AND OTHER TAX ADVISORS REGARDING THE TAX IMPLICATIONS OF A PURCHASE OF AN INTEREST, INCLUDING WHETHER SUCH PURCHASE WILL QUALIFY AS PART OF A PROPOSED TAX-DEFERRED EXCHANGE UNDER CODE SECTION 1031, IF ONE IS CONTEMPLATED.

There are risks associated with the federal income taxation of the purchase of an Interest, particularly where the purchase is intended to be part of a Section 1031 Exchange. Accordingly, all prospective Purchasers must consult their own independent legal, tax, accounting and financial advisors and must represent that they have done so as an investment requirement. You should carefully read the sections of this Memorandum entitled *"Risk Factors"* and *"Federal Income Tax Consequences,"* and consult with your personal tax advisor before making an investment in Interests.

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ORGANIZATIONAL CHART



* FREX DB Depositor Series I LLC was initially issued all unsold Class 2 Beneficial Interests, which will be redeemed using a portion of the proceeds from the sale of Class 1 Beneficial Interests to third party investors who invest in the Trust through the Offering.

** This structure chart deliberately omits certain existing upstream ownership vehicles.

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FREQUENTLY ASKED QUESTIONS

We have summarized certain aspects of the Offering below. The responses to these frequently asked questions do not contain all of the information a prospective Purchaser should consider before making a decision to purchase an Interest. Read this Memorandum in its entirety and consult with your legal, tax and financial advisors about making an investment in an Interest.

What is a "Section 1031 Exchange"?

Code Section 1031 allows a taxpayer to invest the proceeds from the sale of real estate ("**Relinquished Property"**) into "like-kind" property ("**Replacement Property**") while being able to defer the recognition of taxable gain (as applicable). To qualify under Section 1031, the properties involved must be held for investment or used in a trade or business. Generally, a prospective Purchaser of the Class 1 Beneficial Interests issued pursuant to this Offering has 45 days from the date the Relinquished Property is sold to identify potential Replacement Property(ies), which, under certain circumstances, can be property(ies) held by a DST. Each Purchaser has 180 days from the date the Relinquished Property is sold to purchase properly identified Replacement Property(ies). Completing a successful Section 1031 Exchange requires compliance with applicable rules and requirements.

What is a "Delaware statutory trust"?

An offering of DST interests is used to syndicate real estate while preserving the Purchasers' ability to exchange their relinquished property for Interests issued by the Trust in connection with a Section 1031 Exchange and, upon a sale of the Property, engage in a subsequent like-kind exchange (assuming the tax status of the DST remains unchanged). The DST structure provides certain advantages over a tenant-in-common structure. Some of the advantages of owning property under the DST structure are (1) more favorable financing terms; (2) no personal liability for beneficiaries under the financing of the property; and (3) lower transaction costs, including lower administrative costs. The primary disadvantage of the DST structure is that the manager of the trust is limited in the actions it may take to address issues that may arise in connection with the ownership of the Property. Additionally, while a tenant-in-common structure requires investor consent for certain material actions, in a DST structure, the Beneficial Owners have no right to participate in the Trust's management.

Who is the Sponsor?

The Sponsor of the Trust is a Delaware limited liability company and an affiliate of Fortress.

Who is the Property Manager?

Greystar is a leading professional third-party property manager globally with over 72,000 beds managed across 129 student housing properties. Greystar has managed the Property since 2018, consistently leasing the Property to over 90% occupancy while also increasing rental rates. Maintaining Greystar as the Property Manager will minimize the opportunity for any potential disruption with the goal of continued stability and growth in asset performance.

Who is Fortress?

Fortress is a leading, highly diversified global investment manager. Founded in 1998, Fortress manages $54 billion of AUM on behalf of approximately 2,000 institutional clients and private investors worldwide across a range of credit and real estate strategies. FIG LLC, a wholly-owned subsidiary of Fortress, has been a registered investment advisor since 2004. Fortress was publicly traded between 2007 and 2017, and is currently privately owned, with a consortium led by Mubadala Capital as the majority equity owner. Today, Fortress continues to operate as an independent investment manager under the Fortress brand, with full autonomy over investment processes, personnel, and day-to-day decision making. Fortress's broad investment strategies include corporate credit, asset-based finance, real estate, private equity, insurance solutions, and multi-manager offerings.

Fortress is headquartered in New York and Dallas, with affiliates that have offices in Abu Dhabi, Atlanta, Greenwich, Hong Kong, London, Los Angeles, Madrid, Menlo Park, Rome, Sydney and Tokyo.

Fortress has over 20 years of experience in real estate investing across product types and geographies with over $29 billion invested across the capital stack. Within the targeted initial asset classes for the DST program – senior housing, student housing and multifamily – Fortress has invested $919 million of equity across $3.2 billion of transactions.

Led by Timothy Sloan, the Fortress North American and European Commercial Real Estate Team (the "**CRE Team**") consists of over 65 professionals, including investment deal team members and asset management. Of this,

the North American CRE Team consists of 14 investment professionals and 30 asset management professionals. The North American CRE Team will be primarily responsible for sourcing, acquiring, analyzing, structuring and the ongoing management of investment opportunities for the Funds.

Please see Fortress's website at www.fortress.com for additional information relating to Fortress and its management and businesses.

What is being offered in the Offering?

The Offering of the Interests will represent 100% of the outstanding beneficial interests in a recently formed DST. The Trust will hold the underlying real estate, which should represent the Replacement Property for purposes of Section 1031. Prospective Purchasers may acquire the Replacement Property by acquiring the Interests issued by the Trust pursuant to the terms of this Memorandum. Purchasers of an Interest pursuant to the Offering will become Beneficial Owners and be subject to the terms of the Trust Agreement.

Who can participate in the Offering?

You must qualify as a "U.S. person" and an "accredited investor" in order to receive the Memorandum, to become familiar with its terms, and to participate in the Offering. The Offering is not suitable for Non-U.S. Persons. If you do not meet the investor suitability requirements outlined in the Memorandum and any accompanying materials, you cannot participate in the Offering. There are no limitations on the types of Purchasers, aside from those mentioned in the *"Who May Invest"* section of this Memorandum. Examples of Purchasers who may participate in the Offering include but are not limited to individuals, limited liability companies, partnerships, corporations and trusts. Purchasers seeking to acquire an Interest as Replacement Property pursuant to a Section 1031 Exchange should consult their tax advisors regarding any additional requirements relating to the types of entities that may participate in such a Section 1031 Exchange.

What exactly would I be purchasing?

If you choose to participate in the Offering, you will be purchasing an Interest in the Trust, which will own the Property. For federal income tax purposes, an Interest should constitute an interest in Replacement Property and you will be treated as having assumed your *pro rata* share of the Trust's debt for purposes of calculating the amount of your replacement property for purposes of Code Section 1031.

What is a "master lease"?

To help navigate the requirements of Revenue Ruling 2004-86, the Trust will lease the Property to the Master Tenant pursuant to the Master Lease. The Master Tenant will sub-lease the Property to the ultimate end-user tenants.

Who is the Master Tenant?

The Master Tenant is a newly-formed Delaware limited liability company and a wholly-owned subsidiary of a Fortress affiliate.

How is the Master Tenant capitalized?

The Master Tenant will be capitalized with the Demand Note in the amount of $1,500,000 issued by DST Holdings. That is, in the event of financial distress, the Master Tenant will be able to have access to capital equal to approximately six months of rent owed by the Master Tenant to the Trust.

Is there a minimum investment required?

Yes. Generally, you must invest at least the minimum amount specified in this Memorandum (i.e., $25,000 for cash investors and $100,000 for Section 1031 investors).

How do I find a qualified intermediary?

If you do not currently have a qualified intermediary, the Sponsor can provide a list of qualified intermediaries familiar with this type of sophisticated transaction upon request.

How is the Property owned and operated?

The Trust owns the Property in fee simple. The Offering is for Interests issued by the Trust. The Property is leased by the Trust to the Master Tenant pursuant to the terms and conditions of a Master Lease. Pursuant to the Master

Lease, the Master Tenant is responsible for operating and managing the Property including oversight of any property manager and the end-user tenant sub-leasing space on the Property.

What distributions will I receive from my Interest?

You will receive your *pro rata* allocation of available cash from the Trust in which you own an Interest. During the term of each Master Lease, such available cash will generally consist of scheduled Master Lease rental payments, *less* certain fees, expenses (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses), and reserves.

While I own an Interest, what type of information will I receive regarding my investment?

The Manager will furnish periodic reports to each of the Beneficial Owners as to the amount of distributions paid to such Beneficial Owner from the Trust, *less* applicable fees and expenses. The Manager will maintain appropriate books and records in order to provide statements to each Beneficial Owner as is necessary for such Beneficial Owner to prepare his/her income tax returns regarding the Property.

Is there debt on the Property?

Yes. Code Section 1031 generally requires taxpayers to offset debt on their relinquished property with equal or greater debt on their replacement property (or additional cash from another source). Purchasers who are exchanging relinquished property with a larger amount of debt than the proportionate amount of the Loan they are deemed to have assumed for tax purposes in connection with the acquisition of an Interest may recognize taxable gain (although additional cash from another source may offset the reduction in debt).

Am I responsible for any out-of-pocket costs associated with my purchase of the Interests?

Yes. You are responsible for all costs associated with your independent accountant, tax advisor, financial advisor and attorney in connection with the purchase of Interests. Please note that these costs should not be funded from the Section 1031 Exchange escrow held by your qualified intermediary, if applicable, and you should consult with your own tax professional regarding how and to what extent any out-of-pocket cost should be funded from your Section 1031 Exchange proceeds.

What fees and expenses will a Purchaser incur in connection with the closing of a typical purchase of Interests pursuant to the Offering?

In addition to the purchase price of the Interests, Purchasers will be required to pay their own acquisition expenses and closing costs, including the fees paid to their tax advisor, legal counsel, and qualified intermediary. Additionally, for Purchasers seeking to acquire Interests as Replacement Property pursuant to a Section 1031 Exchange, in some cases, certain of the fees and expenses paid out of proceeds from the sale of a Relinquished Property may not be treated as qualifying expenditures paid for the acquisition of qualified Replacement Property for purposes of Code Section 1031 and may cause the Purchaser to recognize gain to the extent of such fees and expenses. Please consult your own tax advisor or counsel for guidance with respect to this issue.

What fees and expenses will be paid out of the proceeds of the Offering?

The following fees and expenses will be paid in connection with the Trust's acquisition of the Property and the sale of the Interests:

(i) An Acquisition Fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property has been incurred for the Manager's and its management team's services in the structuring and negotiation of the acquisition of the Property;

(ii) A Financing Fee in an amount up to 0% of the gross proceeds of the Loan evidenced by the Loan Documents in exchange for the Manager's and its management team's services in negotiating the financing of the Property;

(iii) Reimbursement of Organization and Offering Expenses, on a non-accountable basis, in an amount up to 0.5% of the Maximum Offering Amount, paid by the Trust to the Manager upon the acquisition of the Property;

(iv) Sales Commissions in an amount up to 6% of the purchased Interests, paid by each Purchaser to the Managing Broker-Dealer at the time the Purchaser acquires the Interests, which the Managing Broker-Dealer will re-allow to the Participating Broker-Dealers;

(v) Marketing and Due Diligence Expense Allowances of up to 1% of the purchased Interests for non-accountable due diligence and marketing expenses, paid by each Purchaser to the Managing Broker-Dealer at the time the Purchaser acquires the Interests, which the Managing Broker-Dealer may re-allow in whole or in part to the Participating Broker-Dealers;

(vi) A Managing Broker-Dealer Fee of up to 2% of the purchased Interests, paid by each Purchaser to the Managing Broker-Dealer at the time the Purchaser acquires the Interests;

(vii) A Wholesaling Fee of up to 1% of the purchased Interests, paid by each Purchaser to the Managing Broker-Dealer at the time the Purchaser acquires the Interests; and

(viii) Closing Costs (including certain amounts paid pursuant to the Depositor Loan) incurred in connection with the due diligence, acquisition, and financing of the Property, paid by the Trust to the Sponsor and its affiliates.

For additional details regarding fees and expenses (including certain facilitation fees, as well as for ongoing and future fees), *see "Compensation and Fees."*

What if I want to sell my Interest before the Property is sold?

There is no public market for the Interests, and we do not expect a public market in the future. The Interests are being offered and sold pursuant to exemptions from the registration provisions of federal and state securities laws. Accordingly, the Interests are subject to restrictions on transfer and the Trust Agreement and the Loan Documents contain additional transfer restrictions. Any transfer of an Interest is only permitted in connection with a Permitted Transfer. A "**Permitted Transfer**" means the transfer of an Interest (i) by devise, descent or by operation of law upon the death of a Beneficial Owner or the member, partner, or stockholder of a Beneficial Owner or (ii) by an individual to a trust or other entity created for estate planning purposes primarily for the benefit of such individual. If you are able to transfer your Interest, you or the transferee(s) will bear the costs, if any, of the transfer. Any transfers of an Interest, other than a Permitted Transfer, require the prior written consent of the Manager, which may be withheld in its sole and absolute discretion.

What are a Transfer Distribution and Springing LLC?

A Transfer Distribution occurs in the event that the Manager determines the Master Tenant is insolvent or has defaulted in paying rent, that the Property is in jeopardy of being lost due to a default or imminent default on the Loan, the Trust is in default under the terms of the Loan Documents, or in certain other circumstances, and the Manager further determines (or is functionally required by the Loan Documents) to address such risks by transferring title to the Property to the Springing LLC, a newly-formed Delaware limited liability company, and terminating the Trust. If the Trust is terminated pursuant to a Transfer Distribution, the Beneficial Owners will become members in the Springing LLC, and the Manager, or an entity controlled by or affiliated with the Manager, will become the manager of the Springing LLC.

What is the FMV Option?

Pursuant to the terms of the Trust Agreement, the Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more Exchange Entities for cash pursuant to its FMV Option. The FMV Option will give the Option Holder the right, but not the obligation, to require that each Beneficial Owner sell their Interests for cash. Beneficial Owners may also have the option to receive Units in lieu of cash. For the avoidance of doubt, if the Option Holder offers Beneficial Owners the opportunity to exchange their Interests for Units in connection with the exercise of the FMV Option, such Exchange will always be at the option of each Beneficial Owner, and in no event will Beneficial Owners be required to exchange their Interests for Units. The purchase price of such Interests will be based on the fair market value of the Trust Estate. The fair market value of the Trust Estate will be determined through an appraisal process. *See Risk Factors – Offering Risks – FMV Option.*

What is Code Section 721(a)?

If the Option Holder exercises the FMV Option and a Beneficial Owner elects, at its option, to receive Units, the transaction may qualify under Code Section 721(a), provided that the Option Holder is a partnership for federal income tax purposes, and provided further that other relevant requirements are met. Code Section 721(a) generally provides that neither a contributing partner (i.e., a Beneficial Owner) nor a transferee partnership (i.e., the Option Holder) will recognize gain or loss, for federal income tax purposes, upon a contribution of property to a partnership

in exchange for a partnership interest (i.e., Units). The Interests are intended to qualify as "property" for purposes of Code Section 721(a).

Will I be subject to state income tax in the state in which the Property is located?

Some states have income thresholds that must be exceeded to be subject to income tax, but each state has its own filing requirements and tax code. You should consult with your own tax professional regarding individual state filings.

Is there an additional form that must be returned to the IRS when I transfer business property in a Section 1031 Exchange?

Yes. The IRS requires that you file Form 8824 with your annual tax filings for the year that you transfer the property. State and local governmental entities may also require additional filings. You should consult with your own tax professional regarding such filings.

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RISK FACTORS

The purchase of an Interest involves a number of risks. Do not acquire an Interest if you cannot afford to lose your entire investment. Carefully consider the risks described below, as well as the other information in this Memorandum before making a decision to purchase an Interest. Consult with your legal, tax and financial advisors about an investment in an Interest. The risks described below are not the only risks that may affect an investment in an Interest. Additional risks and uncertainties that we do not presently know or have not identified may also materially and adversely affect the value of an Interest, the Property or the performance of your investment.

Legal Counsel to the Trust, the Sponsor and Their Affiliates Does Not Represent the Purchasers. Each Purchaser must acknowledge and agree in the Purchase Agreement that legal counsel, including Baker & McKenzie LLP, represents the Trust, the Sponsor, the Manager, the Master Tenant, the Depositor and their affiliates and does not represent, and will not be deemed under the applicable codes of professional responsibility, to have represented or to be representing, any or all of the Purchasers.

Delaware Statutory Trust Structure Risks

Beneficial Owners Possess Limited Control and Rights. The Trust is operated and managed solely by the Trustees and the Manager (an affiliate of the Sponsor). The Beneficial Owners will have no right to participate in any aspect of the operation or management of the Trust. The Trustees and the Manager will not consult with the Beneficial Owners when making any decisions with respect to the Trust and the Property, including whether to sell the Property or effectuate a Transfer Distribution. The Beneficial Owners waive any right to file a petition in bankruptcy on behalf of the Trust or to consent to any filing of an involuntary bankruptcy proceeding involving the Trust. The Manager will collect rents due from the Master Tenant under the Master Lease and make distributions pursuant to the Trust Agreement. The Manager will sell the Property in accordance with the provisions of the Trust Agreement, which provides that the Manager has sole power to determine when it is appropriate to sell the Property. The Delaware Trustee may, upon written notice to the Manager, remove the Manager or limit the duties of the Manager under the Trust Agreement. The Manager may remove the Delaware Trustee for the willful misconduct, bad faith, fraud or gross negligence in the performance of its duties under the Trust Agreement.

Beneficial Owners Do Not Have Legal Title. The Beneficial Owners will not have legal title to the Property. The Beneficial Owners will not have any right to seek an in-kind distribution of the Property or divide or partition the Property. The Beneficial Owners do not have the right to sell or cause the sale of the Property.

The Delaware Trustee and the Manager Have Limited Duties to Beneficial Owners. The Delaware Trustee of the Trust and the Manager will not owe any duties to the Beneficial Owners other than those duties set forth in the Trust Agreement. In performing its duties under the Trust Agreement, the Delaware Trustee will only be liable to the Beneficial Owners for its own willful misconduct, bad faith, fraud or gross negligence in the performance of its duties under the Trust Agreement. Similarly, the Manager will only be liable to the Beneficial Owners for its own fraud or gross negligence.

The Delaware Trustee and the Manager Have Limited Powers, and the Trust May Therefore Face Increased Termination Risk. In order to comply with the tax law regarding investment trusts and Section 1031 Exchanges, the Trust Agreement expressly prohibits the Delaware Trustee and the Manager from taking a number of actions, including the following: (a) selling, transferring or exchanging the Property except as required or permitted under the Trust Agreement; (b) reinvesting any monies of the Trust, except to make permitted modifications or repairs to the Property or in short-term liquid assets; (c) renegotiating the terms of the Loan or entering into new financing, except in the case of the bankruptcy or insolvency of the Master Tenant or another tenant; (d) renegotiating the Master Lease or entering into new leases, except in the case of the Master Tenant's bankruptcy or insolvency; (e) making modifications to the Property (other than minor non-structural modifications) unless required by law; (f) accepting any capital from a Beneficial Owner (other than capital from the repurchase of the Depositor's Class 2 Beneficial Interests and thereby reducing the Depositor's ownership interest in the Trust); or (g) taking any other action that would in the opinion of Tax Counsel to the Trust cause the Trust to be treated as a business entity for federal income tax purposes.

As a result, the Trust may be required to effectuate a Transfer Distribution in order to take the actions necessary to preserve and protect the Property. *See "Summary of the Trust Agreement."* While the Property will remain subject to the Loan after such conversion or transfer, the Beneficial Owners will no longer be considered to own, for federal income tax purposes, a direct ownership interest in the Property.

Management and Indemnification. The Manager will have administrative authority with respect to the Trust. The Trust Agreement provides for indemnification by the Beneficial Owners of the Delaware Trustee against liabilities not attributable to the Delaware Trustee's own willful misconduct, bad faith, fraud or gross negligence in the performance of its duties under the Trust Agreement, and of the Manager against liabilities not attributable to the Manager's own willful misconduct, bad faith, fraud or gross negligence. Such indemnity and limitation of liability may limit rights that Beneficial Owners would otherwise have to seek redress against the Delaware Trustee and the Manager. Based on the interrelationship between the relevant provisions of the Delaware Statutory Trust Act (the "**DST Act**") and the Trust Agreement, Beneficial Owners will have personal liability for payment of any indemnity owed to the Delaware Trustee or the Manager.

Rev. Rul. 2004-86. The utilization of a DST (like the Trust) to acquire and hold property for purposes of a Section 1031 Exchange is based primarily on Revenue Ruling 2004-86, which sets forth terms under which a trust will be treated as an "entity" that is taxable as a "trust" rather than taxable as a partnership. It is possible that the IRS could modify or revoke Revenue Ruling 2004-86 or, in the alternative, determine that the Trust does not comply with the requirements of that ruling. A determination that the Trust is not taxable as a trust (within the meaning of Treasury Regulations Section 301.7701-4) could have a significant adverse impact on the Beneficial Owners.

Sale. The Manager will sell the Trust Estate upon its determination (in its sole and absolute discretion) that the sale of the Trust Estate is appropriate; *provided*, *however*, that absent unusual circumstances, it is currently anticipated that the Trust will hold the Trust Estate for at least two years. Any such sale of the Trust Estate will occur as soon as practicable after the Manager has determined that the sale of the Trust Estate is appropriate and in such manner as the Manager determines to be in the best interests of the Trust. This sale will occur without regard to the tax position, preferences or desires of any of the Beneficial Owners, and the Beneficial Owners will have no right to approve (or disapprove) of the sale of the Property. The Beneficial Owners will not have the right to sell the Property. A Beneficial Owner may or may not be able to defer the recognition of gain for federal, state or local income tax purposes when a sale occurs. Additionally, pursuant to the FMV Option, the Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more Exchange Entities for cash pursuant to its FMV Option.

Transfer to Newly-Formed Delaware Limited Liability Company. If the Manager determines that it is necessary to effectuate a Transfer Distribution, or if otherwise required pursuant to the Loan Documents, the Trust will transfer the Property to a Springing LLC, a newly-formed Delaware limited liability company. The Springing LLC will be treated as a partnership for federal income tax purposes, and the Beneficial Owners will become members in the Springing LLC. Unlike interests issued by the Trust, membership interests in the Springing LLC will not be treated as interests in real property for federal income tax purposes (including for purposes of Code Section 1031). Thus, if the Trust transfers the Property to a Springing LLC in a Transfer Distribution, it is unlikely that any of the Beneficial Owners will thereafter be able to defer the recognition of gain on a subsequent disposition of their membership interests in the Springing LLC or such Property under Code Section 1031.

The transfer of the Property to a Springing LLC will occur under the circumstances set forth in the Trust Agreement without regard to the costs incurred as a result of such transfer. It is possible that such transfer will result in the imposition of (i) state and/or local transfer, sales or use taxes; or (ii) federal income tax (although no federal income tax would be imposed under current law).

In the Event of an Adverse Effect on the Income of the Trust, the Trust Is Not Permitted to Obtain Additional Funds Through Additional Borrowings or Additional Capital, and Therefore Could Be Required to Effectuate a Transfer Distribution so as to Seek to Raise Capital through the Springing LLC. If, after a Transfer Distribution, additional funds are not available from any source, the Springing LLC may be forced to dispose of all or a portion of the Property on terms that may not be favorable to the Beneficial Owners. Further, apart from potential adverse economic consequences of a Transfer Distribution, a Transfer Distribution may have adverse tax consequences for the Beneficial Owners. *See "Federal Income Tax Consequences."*

The Trust Agreement Restricts Beneficial Owners' Rights to Information. The Trust Agreement eliminates certain rights to information the Beneficial Owners would have otherwise had under the DST Act. While the Sponsor believes this is reasonable, necessary and prudent to protect the interests of legitimate Purchasers in the Trust from 'greenmail' or other attacks by parties such as so-called 'vulture investors' that are potentially harmful to the investment program, this would nevertheless mean that a Purchaser will have less access to information from the Trust than a Purchaser would be entitled to under the DST Act, including contact information for other Beneficial Owners.

Real Estate, Economic and Business Risks

Accuracy of Anticipated Results of Operations. The anticipated results of operations for the Trust as set forth in this Memorandum, including the pro forma financial projections attached as **Appendix I: Financial Forecast**, are based upon current estimates of income and expenses relating to the operation of the Property, should be considered speculative and are qualified in their entirety by the assumptions, information, limitations and risks disclosed in this Memorandum. If the assumptions on which these estimates are based do not prove correct, the Beneficial Owners who own Interests issued by the Trust will have difficulty in achieving these results. The anticipated results of operations assume occupancy levels and certain net rental rates. There can be no assurance that the Property can achieve stabilization or maintain the occupancy level or rate increases anticipated. Some of the other underlying assumptions may not materialize and unanticipated events and circumstances may occur. Therefore, the actual results achieved during the Trust's ownership of the Property may vary from those anticipated, and the variation may be material. As a result, the rate of return to the Trust and the Beneficial Owners may be lower than that projected. Any return to the Beneficial Owners on their investment will depend on the ability of the Master Tenant and the Property Manager to operate the Property profitably and ultimately sell the Property at a profit, which, in turn, will depend upon economic factors and conditions beyond their control.

Risks of Real Estate Ownership. The investment by Beneficial Owners will be subject to the risks generally incident to the ownership of real property, including changes in national and local economic conditions, changes in the investment climate for real estate investments, changes in demand for or supply of competing properties, changes in local market conditions and neighborhood characteristics, the availability and cost of mortgage funds, the obligation to meet fixed and maturing obligations (if any), unanticipated holding costs, the availability and cost of necessary utilities and services, changes in real estate tax rates and other operating expenses, changes in governmental rules and fiscal policies, changes in zoning and other land use regulations, environmental controls, acts of God (which may result in uninsured losses), and other factors beyond the control of the Trust. Any negative change in the general economic conditions in the United States could adversely affect the financial condition and operating results of the Trust.

The Trust also will be subject to those risks inherent in the ownership of income-producing real property, such as occupancy, operating expenses and rental schedules, which in turn may be adversely affected by general and local economic conditions, the supply of and demand for properties of the same type as the Property, the financial condition of tenants and sellers of properties, zoning laws, federal and local rent controls and real property tax rates. Certain expenditures associated with real estate equity investments are fixed (principally mortgage payments, if any, real estate taxes, and maintenance costs) and are not necessarily decreased by events adversely affecting the income from such investments. The ability of the Trust to meet its obligations will depend on factors such as these and no assurance of profitable operations can be given.

The Property is Subject to Risks Relating to its Local Real Estate Market. Weaknesses or declines in the local economy and real estate market could cause vacancy rates at the Property to increase and could adversely affect the Trust's ability to sell the Property under favorable terms. The factors which could affect economic conditions in the market generally include business layoffs, industry slowdowns, relocations of businesses, changing demographics, infrastructure quality and any oversupply of or reduced demand for real estate. Declines in the condition of the market could diminish the value of your investment and the Property.

The Real Estate Market is Subject to Constant Economic Fluctuations. As the Cycle Matures, Real Estate Returns May Lose Momentum, Which Could Have a Negative Impact on the Performance of the Property. The ongoing competition for high quality real estate assets and resulting upward pressure on pricing may reduce anticipated returns. Furthermore, economic growth remains fragile and could be slowed or halted by significant external events. A negative shock to the economy could result in reduced tenant demand, higher tenancy default and rising vacancy rates. There can be no assurance that the Property will not be adversely affected by a severe slowing of the economy or a recession. Tenant defaults, fluctuations in interest rates, limited availability of capital and other economic conditions beyond the Trust's control could negatively affect the economic performance of the Trust Estate and decrease the value of the Property.

Risks of Investing in Residential Property; Competition. The rental of residential space is a highly competitive business. Ownership of the Property could be adversely affected by competitive properties in the real estate market, which could affect the operations of the Property and the ultimate value of the Property. Success in owning the Property, therefore, will depend in part upon the ability of the Master Tenant and the Property Manager (i) to retain current tenants at favorable rental rates; (ii) to attract other quality tenants upon the termination of existing

leases if the existing tenants fail to renew or as otherwise needed; and (iii) to provide an attractive and convenient living environment for the tenants.

Although the Property will be leased to the Master Tenant throughout the term of the Trust, the Master Tenant is a newly-formed entity with limited financial resources. The financial performance of the Property therefore will be dependent to a significant degree on the ability of the Master Tenant and the Property Manager to retain current tenants, to attract new tenants if necessary and, as planned, to increase rental rates, all of which may in turn depend on factors both within and beyond the control of the Manager, the Trust, the Master Tenant, and the Property Manager. These factors include changing demographic trends and traffic patterns, the availability and rental rates of competing residential space, and general and local economic conditions. The number of competitive residential properties in a particular area could have a material adverse impact on the Master Tenant and the Property Manager's ability to lease the Dwelling Units of the Property and the rents they are able to obtain. The loss of a tenant or the inability to maintain favorable rental rates with respect to the Property would adversely affect the value of the Property and/or the ability of the Master Tenant to pay rent, which could result in the Lender declaring the Loan in default and foreclosing on the Property. This could result in the Purchasers losing the entire value of their Interests. The occurrence of a casualty resulting in damage to the Property could also decrease or interrupt the payment of tenant rents, which could adversely affect the Master Tenant's performance under the Master Lease. The tenant leases generally allow the end-user tenants to terminate their leases if the leased premises are partially or completely damaged or destroyed by fire or other casualty. Such leases will also permit the end-user tenants to partially or completely abate rental payments during the time needed to rebuild or restore such damaged premises. The leases or local law may permit tenants to assign their leases or sublet the premises they occupy, but such assignment or subletting generally will not relieve the tenant of its primary obligations under the lease.

The Financial Performance of the Property Will Depend Upon the Ability of the Property Manager to Attract and Retain Residential Tenants Who Will Meet Their Rental Obligations on a Timely Basis, Care for Their Living Space and Preserve or Enhance the Reputation of the Property. The financial performance of the Property and the related ability of the Property Manager to meet the financial projections contained herein will depend upon many factors, a significant one being the tenants' timely payment of rent and care for their living spaces under their leases. If a large number of tenants become unable to make rental payments when due, decide not to renew their leases or decide to terminate their leases, this could result in a significant reduction in rental revenues, which could adversely affect the ability of the Master Tenant to make payments under the Master Lease, including payment of principal and interest on the Loan, which could adversely affect the value of the Property and/or result in the Lender declaring the Loan in default and foreclosing on the Trust's interest in the Property. This could result in the Purchasers losing their entire investment in the Property. In addition, the failure by a large number of tenants to properly care for their units or common areas or to preserve or enhance the reputation of the Property could lead to increased repair and maintenance costs or otherwise adversely affect the value of the Property. Failure on the part of a tenant to comply with the terms of its lease may give the Master Tenant the right to terminate the lease, repossess the applicable premises and enforce payment obligations under such lease. However, the cost and effort involved in pursuing these remedies and collecting damages from a defaulting tenant could be greater than the value of the lease. There can be no assurance that the Master Tenant will be able to successfully pursue and collect from defaulting tenants or re-let the premises to new tenants without incurring substantial costs, if at all. If other tenants are found, the Property Manager may not be able to enter into new leases on favorable terms. The financial projections assume a minimum occupancy rate and certain net rental rates for the Property to enable the Master Tenant to comply with its obligations under the Master Lease, but there can be no assurance that the Property will maintain the minimum occupancy rate or that the minimum net rental rates will be achieved. The Loan Documents provide that the Lender must approve any change of the Master Tenant or Property Manager, which may make it difficult and/or costly to make a desired change in the management of the Property.

Competition from Apartment Communities in the Surrounding Geographic Area. A number of apartment communities of similar size and amenities are located in the Property's immediate sub-market. *See "Market and Location Overview."* There are a number of apartment communities in the surrounding region that may be more attractive to renters. Competing apartment communities may reduce demand for the Property, increase vacancy rates in the Dwelling Units, decrease rental rates and impact the value of the Property itself. There may also be additional real property available in the general vicinity of the Property that could support additional apartment communities. If newer housing is built, it may siphon demand away from the Property, as newer housing may be more attractive to prospective tenants. It is possible that tenants from the Property will move to existing or new apartment communities in the surrounding areas, which could adversely affect the financial performance of the Property. Competition from

nearby apartment communities could make it more difficult to attract new tenants and ultimately sell the Property on a profitable basis. The Property could also experience competition for real property investments from individuals, corporations and other entities engaged in real estate investment activities. Other properties and real estate investments may be more attractive than the Property. There is no assurance that the Property Manager will be able to attract residents to the Property given these facts.

Additionally, other persons or entities may have greater experience and financial strength to compete. The Trust may not be able to maintain the Property or attract tenants on favorable terms, if at all. For example, competitors may be willing to offer space at rental rates below the rental rates charged by the Property, causing the Trust to lose existing or potential tenants and pressuring the Trust to reduce rental rates to retain its existing tenants or convince new tenants to lease space at the Property. Similarly, the opening of new competing facilities near the Property may hinder the Master Tenant's ability to renew the existing leases or to lease to new tenants because the proximity of new competitors may divert existing or new tenants to such competitors.

Changes In Laws Could Adversely Affect the Property. Various federal, state and local regulations, such as fire and safety requirements, environmental regulations, the Americans with Disabilities Act of 1990 (the "**ADA**"), non-discrimination and equal housing laws, land use restrictions and taxes affect the Property. If the Property does not comply with these requirements, the Trust may incur governmental fines or private damage awards. New, or amendments to existing, laws, rules, regulations or ordinances could require significant unanticipated expenditures or impose restrictions on the operation, redevelopment or sale of the Property. Such laws, rules, regulations or ordinances may adversely affect the ability of the Trust to operate or sell the Property without leading to a commensurate increase in the value of the Property.

Costs Associated with Complying With the ADA May Affect Cash Available for Distribution and May Not Increase the Value of the Property. The Property will generally be subject to the ADA. Under the ADA, all places of public accommodation are required to comply with federal requirements related to access and use by disabled persons. The ADA has separate compliance requirements for "public accommodations" and "commercial facilities" that generally require that buildings be made accessible and available to people with disabilities. The ADA's requirements could require removal of access barriers and could result in the imposition of injunctive relief, monetary penalties or, in some cases, an award of damages. The Property may not comply with the ADA or may not be able to allocate the burden to a third party to ensure compliance with the ADA in all cases. Any construction undertaken to comply with the ADA may not increase the value of the Property.

The Operation of the Property Will Depend, in Part, on the Availability of Public Utilities and Services, Especially for Water and Electric Power. Any Reduction, Interruption or Cancellation of These Services May Adversely Affect the Trust and the Master Tenant. Public utilities, especially those that provide water and electric power, are fundamental for the sound operation of the Property. The delayed delivery or any material reduction or prolonged interruption of these services could allow tenants to terminate their leases or result in an increase in the Master Tenant's costs, as it may be forced to use backup generators.

An Increase in Real Estate Taxes or Insurance Costs May Adversely Affect the Master Tenant and Indirectly Affect the Operating Results of the Property and the Trust. The projected income from the Property is based on certain assumptions, including an increase in real estate taxes and insurance costs. However, from time to time, the real estate taxes and insurance costs may increase more than projected as property values or assessment rates change or for other reasons. Real estate taxes and insurance costs may increase even if the value of the Property declines. Under the Master Lease, the Master Tenant is solely and economically responsible for the payment of real estate taxes and insurance costs, which are funded through monthly payments based on projected amounts and reconciled on an annual basis. To the extent that actual real estate taxes or insurance costs exceed projected amounts, the Master Tenant is required to fund any such shortfall. While excess amounts funded by the Master Tenant are carried forward to future periods, material or sustained increases in taxes or insurance costs could adversely affect the Master Tenant's cash flow, liquidity, or ability to meet its obligations under the Master Lease, which could, in turn, adversely affect the operating results of the Property and the Trust.

Agreements and Other Matters Affecting the Property May Impact the Operations and Performance of the Property. Residential properties, such as the Property, may be subject to various easements, declarations, restrictions, encroachments, and other agreements of record with neighboring landowners, and local governmental entities that may restrict certain land and/or property uses, impose certain fees or obligations, and otherwise impact the operation and performance of such properties. *See "The Property – Agreements and Other Matters Affecting the*

Property" for a discussion of any such agreements which may be material to a possible investment pursuant to this Memorandum.

Dependence on Third Party Contractors and Suppliers. The Trust and/or the Property Manager will engage third party contractors and sub-contractors and will directly or indirectly source materials and supplies from third party suppliers. The use of third party contractors, sub-contractors, and suppliers may expose the Trust and/or the Property Manager to potential liabilities which may arise in cases where such third parties fail to meet pre-agreed budgets, timelines, and quality of a particular engagement or materials supplied. The materials and supplies used to operate and maintain the Property will need to conform to high quality specifications, and the work contracted to be provided by third parties must meet a minimum standard. The use of third party contractors, sub-contractors, and suppliers will expose the Trust and/or the Property Manager to risks that the services provided by such contractors and sub-contractors, and the materials purchased from such suppliers, may not meet necessary quality standards and consequently result in delays in correcting any deficiencies. To the extent that the Trust and/or the Property Manager are unable to rely on these third party contractors, sub-contractors, and suppliers, either due to an adverse change in relationship, increases in the cost of their goods and services, or a supplier's inability to provide materials or services in a timely manner or of the necessary quality, the Trust could be adversely affected through higher costs or the resulting potential inability to operate the Property, which could have a material adverse effect on the Trust's business, financial condition, results of operations and/or prospects.

The Acquisition and Disposition of Real Property Carries Certain Litigation Risks at the Property Level that May Reduce Profitability and the Return on Your Investment. The acquisition and disposition of real properties carry certain specific litigation risks. Litigation may be commenced with respect to the Property in relation to activities that took place prior to the Trust's acquisition of the Property. In addition, at the time of disposition of the Property (including, for example, pursuant to the exercise of the FMV Option), a potential buyer may claim that it should have been afforded the opportunity to purchase the asset or alternatively that such potential buyer should be awarded due diligence expenses incurred or statutory damages for misrepresentation relating to disclosure made, if such buyer is passed over in favor of another as part of the Trust's efforts to maximize sale proceeds. Similarly, successful buyers may later sue the Sponsor, the Trust or any of their affiliates under various damage theories, including those founded in tort, for losses associated with latent defects or other problems not uncovered in due diligence.

Public Health Risks May Affect the Economic Performance of Your Participation in the Offering. Public health concerns related to any outbreak of an infectious disease such as severe acute respiratory syndrome, avian flu, H1N1/09 flu and COVID-19 or any other serious public health concern (in each case, a "**Public Health Event**"), could have a negative impact on the economy and the business activities in which the Trust may engage. The Trust's business activities and economic performance could also be negatively impacted in the event a federal, state or local government has a reaction to a Public Health Event resulting in restrictions on travel, quarantines, or other directives designed to reduce the effects of such Public Health Event. The full extent of the impact of a Public Health Event on the future financial performance of the Trust, as a whole, and, specifically, on its investments, real estate acquisitions, construction and tenants of real estate properties could be compromised by negative economic effects caused by a Public Health Event. The full impact will depend on subsequent developments, including, among other factors, the duration and spread of the Public Health Event, along with any related travel advisories or restrictions, government orders preventing business and/or tenant operations, the recovery time of the disrupted supply chains, unemployment, any consequential staff shortages and production delays, and any uncertainty with respect to the accessibility of additional liquidity or to the capital markets. A Public Health Event could have a continued adverse impact on economic and market conditions and trigger a period of global economic slowdown. Based on the economic climate, it may be even more difficult to predict the economic performance of a Purchaser's participation in the Offering. Even if federal, state or municipal governments intervene and provide aid to the industries negatively affected by a Public Health Event, there can be no assurances provided that such aid would be received by the Trust or any of their affiliates or service providers, or that any amount of such aid would mitigate any material economic reduction in value of the Interests.

With regard to the Offering, Purchasers are advised that they could experience one or more of the following adverse consequences as a result of a Public Health Event: (1) jurisdictional differences in governing law with regard to any governmental response to the Public Health Event; (2) revenue or cash flow uncertainty caused by a decrease in rental payments received by the Master Tenant; (3) default on the Loan encumbering the Property; and (4) uncertainty regarding the exit strategy for the Trust and other market participants.

Risk of Catastrophic Loss. The Trust and/or the Master Tenant, as applicable, will attempt to maintain (or cause to maintain) insurance coverage against liability to third parties and property damage as is customary for similarly situated businesses and assets. However, there can be no assurance that insurance will be available or sufficient to cover any such risks. Insurance against certain risks, such as earthquakes, floods, typhoons, pollution, acts of war or terrorism may be unavailable, available in amounts that are less than the full market value or replacement cost of investments or underlying assets or subject to a large deductible. There can also be no assurance the particular risks which are currently insurable will continue to be insurable on a commercially reasonable basis. Inflation, changes in building codes and ordinances, environmental considerations and other factors might not make it feasible to use insurance proceeds to replace the Property if it is damaged or destroyed. Under such circumstances, the insurance proceeds received by the Trust or the Master Tenant might not be adequate to restore its economic position with respect to the Property.

Climate Change May Affect the Value of the Property. There may be significant physical effects of climate change that have the potential to have a material effect on the Property's business and operations. Physical impacts of climate change may include: increased storm intensity and severity of weather (e.g., floods or hurricanes); sea level rise; and extreme temperatures. As a result of these physical impacts from climate-related events, the Property may be vulnerable to the following: risks of property damage; indirect financial and operational impacts from disruptions to the operations of properties from severe weather; increased insurance premiums and deductibles or a decrease in the availability of coverage, for investments in areas subject to severe weather; increased insurance claims and liabilities; increase in energy cost impacting operational returns; changes in the availability or quality of water or other natural resources on which the business depends; decreased consumer demand for consumer products or services resulting from physical changes associated with climate change (e.g., warmer temperature or decreasing shoreline could reduce demand for residential and commercial properties previously viewed as desirable); incorrect long-term valuation of an equity investment due to changing conditions not previously anticipated at the time of the investment; and economic distributions arising from the foregoing.

Additionally, climate change may result in regulatory and/or litigation risks (e.g., changing legal requirements that could result in increased compliance costs, changes in business operations, the discontinuance of certain operations, and related litigation). These risks could result in unanticipated delays or expenses and, under certain circumstances, could prevent the operations of the Property or disposition activities once undertaken, any of which could have an adverse effect on the Trust.

Student Housing Risks

Residential Leases for the Property Generally Have Short Terms, and the Property Manager May Be Unable to Renew Leases or Re-Let Units as Residential Leases Expire. Most of the existing residential leases for the units at the Property are student leases and thus have lease terms of 12 months. Furthermore, renewal of student leases is may be less likely than for other kinds of residential leases, given that many students only temporarily live in the geographical market of their university until they complete their studies. Consequently, the Property's performance may in large measure depend upon the effectiveness of the Property Manager's marketing efforts to attract replacement tenants and to maintain the occupancy rate for the Property, which may require significant time and money. If tenants decide not to renew their leases upon expiration or decide to terminate their leases, the Property Manager may not be able to re-let their units. Even if the tenants do renew or their units are re-let, the terms of renewal or re-leasing may be less favorable than current lease terms. If the Property Manager cannot promptly renew the leases or re-let the units, or if the rental rates upon renewal or re-leasing are significantly lower than expected rates, then the Property's financial operations and condition will be adversely affected and this, in turn, may adversely affect the Property's cash flow, the ability of the Master Tenant to pay all rents due under the Master Lease and the ability of the Trust to service its debt and pay distributions to the Beneficial Owners. Prospective Purchasers of Interests should be advised that the Sponsor has made certain assumptions about the Tenant's ongoing occupancy of the Property in connection with the Sponsor's organization of the Offering. Such assumptions may prove inaccurate, which could affect the economic results of Beneficial Owners.

Competitive Student Housing Market. The Trust expects to face competition from many sources in the student housing market, including public dormitories and other private student housing, both in the immediate vicinity and in the geographic market of WVU. On-campus housing may have several advantages over any off-campus housing options, such as the Property, including, but not limited to, location and integration into the academic community. This may cause some student-tenants to opt for on-campus housing, rather than choosing to live off-campus at the Property. The Property will also compete with other off-campus housing options, which may be newer or closer to

campus, charge lower rent, possess more attractive amenities, offer more services or offer more attractive lease terms than the Property. In addition, new on-campus and off-campus housing options may be built that will increase competition in the student housing market. The Property's competitors may have greater experience and financial resources than the Trust, giving them an advantage in attracting tenants to their properties. Competitive forces could result in rate reductions and the necessity to provide other incentives in order to keep a high occupancy levels, thus potentially leading to losses of projected income.

Student Housing Industry Risk. The Property's financial performance is dependent on, among other things, an annual leasing cycle, short lease-up period, seasonal cash flows, changing university admission and housing policies and other risks inherent in the student housing industry. While units are marketed months before the beginning of an academic year, student leases typically have terms of 12 months or less, most of which begin and end simultaneously. As a result, there is a significant amount of leasing risk. Consequently, the economic success of the Property will be highly dependent on the successful marketing and leasing efforts and personnel during the lease-up season. Also, even though guarantees will often be sought from parents or other guarantors, student lessors may be more likely to default on their lease obligations than a corporate entity.

Relationship with West Virginia Universities. The Trust may rely on its relationship with WVU for referrals of prospective student-tenants or for mailing lists of prospective student-tenants and their parents. The failure to maintain good relationships with the school could, therefore, have a material adverse effect on the Trust. WVU owns and operates on-campus student housing that will compete directly with the Property for student-tenants, and, if the school refuses to provide the Trust with referrals or to make lists of potential student-tenants and their parents available (or increases the costs of these lists), the lack of such referrals or lists could have a material adverse effect on the success of the Property.

Changes in WVU's Policies. Changes in admissions and housing policies at WVU could adversely affect the Trust. For example, if the school reduces the number of student admissions or requires that a certain class of students (e.g., first-year students) live in on-campus housing, the demand for beds in the Property may be reduced and occupancy rates may decline. While the Trust may engage in marketing efforts to compensate for any such policy changes, the Trust may not be able to effect such marketing efforts prior to the commencement of the annual lease-up period, or such marketing efforts may be unsuccessful, reducing the overall demand for the Property and having a material adverse effect on the Trust.

WVU's Reputation. Demand for the Property depends in part on the ability for WVU to attract the desired number of students. Any degradation in the school's reputation could inhibit its ability to attract students and reduce the demand for the Property.

Reporting of On-Campus Crime Statistics. To the extent published, either by law or policy, reports of crime or other negative publicity regarding the safety of the students residing on or near school campuses may have an adverse effect on demand for the Property.

Availability and Cost of Casualty Insurance. The student housing asset class poses a particular challenge with respect to obtaining and maintaining casualty insurance. As a result, the Master Tenant may incur substantial costs in connection with procuring casualty insurance for the Property.

Federal Government Policy Related to International Student Visas. Changes or uncertainty with respect to federal government immigration policies could affect the availability of visas from non-U.S. persons who may want to pursue education at a U.S. university. As a result, it is possible that current or prospective students at WVU may be affected by such changing or uncertain policies—especially to the extent that international student visas may become more difficult to obtain or maintain. A reduction in the number of international students at WVU could adversely affect demand for the Property.

Risks Relating to the Master Tenant and the Master Lease

Limited Capital of the Master Tenant. The financial stability of the Master Tenant may affect the financial performance of the Property. The Master Tenant's initial capitalization is supported solely by a Demand Note from DST Holdings. DST Holdings is an affiliate of the Sponsor. Neither the Sponsor nor DST Holdings has any further obligation to finance the Master Tenant. The Demand Note is valued at $1,500,000. DST Holdings is under no obligation to contribute capital to the Master Tenant other than the amount of the Demand Note. If the Master Tenant requires funds in excess of the Property's net operating income to pay the Rent (subject to a limited right of deferral) or satisfy its other obligations under the Master Lease, it will need to call upon DST Holdings to contribute the amount

of the Demand Note. However, no assurance can be given that the amount of the Demand Note will be sufficient to enable the Master Tenant to pay the rent or to fund its obligations under the Master Lease, or that DST Holdings will be able to fund the Demand Note if called upon by the Master Tenant to do so. If the Master Tenant is unable to pay the Rent or satisfy its obligations under the Master Lease, the Master Tenant would be in default under the Master Lease. A Master Tenant default also constitutes an event of default under the Loan Documents, in which case the Trust would be required to effect a Transfer Distribution and the Master Lease would terminate, which could also result in suspension or termination of distributions to Beneficial Owners and/or a foreclosure of the Property by the Lender. In addition, the costs and time involved in enforcing the Trust's rights under the Master Lease may be significant. If the Trust terminates its Master Lease, it may not be able to master lease the underlying Property on terms similar to the existing Master Lease. If the Trust is unable to enter into a new master lease for the Property, the returns to Purchasers will likely be materially adversely affected. In addition, if the Trust is unable to enter into a new master lease, it would likely become necessary for the Trust to effectuate a Transfer Distribution, in order to engage in leasing activities, which will likely give rise to adverse tax consequences to Purchasers. Absent insolvency or a bankruptcy by either of the Master Tenant, the Delaware Trustee may not be empowered to execute such replacement master lease. Furthermore, if the Master Tenant is unable to pay the rent or satisfy its obligations under the Master Lease, the Trust may be unable to pay the debt service on the Loan and the Lender could foreclose on the Trust's interest in the Property. In such event, the Purchasers could lose their entire investment in such Property and suffer adverse tax consequences.

DST Holdings May Be Unable to Fulfill its Obligations Under the Demand Note. DST Holdings has made the Demand Note in the amount equal to $1,500,000, in favor of the Master Tenant and in order to capitalize the Master Tenant. However, there can be no assurance that DST Holdings will be able to satisfy its obligations pursuant to the Demand Note. The net worth or current assets of DST Holdings may be insufficient to support its obligations under the Demand Note at the time of being called. If DST Holdings is required to perform on outstanding or future demand notes, guaranties or other debt obligations or otherwise experiences an adverse financial event, it is possible that DST Holdings may not have sufficient funds or resources to perform its obligations under the Demand Note and may be unable to fulfill its obligations to the Master Tenant. In the event of the insolvency or bankruptcy of DST Holdings, the Master Tenant would be required to compete with any other creditor claims that may be asserted against the same assets of those entities and any secured creditor claims would be superior to those of the Master Tenant under the Demand Note, which is unsecured. The assets of DST Holdings and its affiliates are subject to the various risks, including general business risks, risks of real estate ownership, syndication and management, including, but not limited to, market value fluctuations and uncertainty of profitability of business operations. The ultimate value of these existing assets will depend upon their ability to successfully implement their respective business plans, which in turn depends upon competition and other market factors. If DST Holdings is unable to pay its Demand Note when called upon, the Master Tenant may have insufficient funds to pay its Rent or property expenses, including without limitation the Base Rent upon which the Trust relies in order to be able to pay the debt service on the Loan. Any failure of the Master Tenant to pay the Rent would materially and adversely affect returns to the Purchasers, which may cause the Trust to effect a Transfer Distribution and terminate the Master Lease, and may cause a default under the Loan resulting in foreclosure and a complete loss of the Property and the entire investment of the Purchasers.

Performance of the Master Tenant Under the Master Lease. The ability of the Trust to meet its obligations is dependent upon the performance of the Master Tenant and its payment of Rent and other payments required under the Master Lease.

Risks Relating to Tenant Defaults on Lease Payments. The Trust will indirectly depend on end-user tenants for revenue from the Property, and lease terminations or the exercise of any co-tenancy rights will adversely affect the Trust's operations. No assurance can be given that the current end-user tenants (or any future tenants) will not suffer material financial hardships, resulting in their inability to pay rent, or otherwise default on their obligations under their leases. Any defaults on lease payment obligations by end-user tenants will cause the Master Tenant, and may cause the Trust, to lose revenue. If an end-user tenant defaults, the Master Tenant may experience delays in enforcing its rights and may incur substantial costs in protecting its investment, which can, in turn, have an adverse impact on the rental payments received by the Trust from the Master Tenant.

Additionally, from time to time, an economic downturn could occur that would result in slowed economic activity. If a current or future end-user tenant were to suffer a serious economic setback, it might not be able to pay rent due under its lease. To the extent the Master Lease is terminated or expires, the economic success of an investment in the Interests will depend on the continued occupancy of the Property and the performance of tenants under their leases.

The Master Tenant Has a Limited Right to Defer Rental Payments Under the Master Lease. Under the Master Lease, if the Master Tenant fails to pay Additional Rent or Supplemental Rent amounts to the Trust despite the Property's operating cash flow for a period exceeding the Additional Rent and/or Supplemental Rent breakpoints provided in the Master Lease (for example, because associated expenses of the Property are substantial during such period), then in such event, the Master Tenant may defer the payment of the applicable portion of the Additional Rent and/or Supplemental Rent due under the Master Lease (but not any portion of the Base Rent required to make debt service payments due under the Loan Documents) until cash flow becomes available to pay such shortfall amounts or upon disposition of the Property. In such event, interest will accrue on the deferred rent, if any, in accordance with the terms of the Master Lease. The Master Tenant may draw upon the Master Tenant Capital Reserve Account to fund any Master Tenant expenses and, thereby, utilize its available reserves to fund a shortfall that would otherwise require a deferral of Additional Rent and/or Supplemental Rent. Because the Master Tenant may accrue a portion of the Additional Rent and Supplemental Rent, it will not be required to call the underlying Demand Note from DST Holdings in order to make up such a shortfall. In such an instance, Purchasers may receive less or more varied distributions than they would have if the Master Tenant were required to call the Demand Note to fund any such Rent shortfall. Furthermore, if future cash flow from the Property or disposition proceeds are insufficient to pay the accrued Rent and DST Holdings is unable to fund the Demand Note when called, then the Trust may never receive the full amount of any such accrued Rent, which could materially and adversely affect the returns to the Purchasers.

Additionally, in the event that the Master Tenant elects to defer payment of a portion of the Rent, although the issue is not completely settled under existing law, under Code Section 467, Beneficial Owners may be required to report and pay tax on rent in accordance with the rent schedule attached to the Master Lease, even though the Master Tenant may have elected to defer the payment of a portion of such Rent. As a result, Beneficial Owners may be required to recognize rental income even though rent is not being fully paid, and therefore Beneficial Owners may have to use funds from other sources to pay tax on such income. *See "Summary of the Master Lease."*

Risks Relating to an Investment in the Property

Valuation. In connection with the Loan, the Lender obtained the Appraisal for the Property prepared by the Appraiser, dated February 13, 2026, reflecting a market value, "As Is" of $65,200,000 as of January 29, 2026. The total aggregate purchase price of $71,765,150 for the Property (including costs and fees) is lower than the $75,983,939 aggregate purchase price of the Interests, which includes $40,178,939 in equity for the Interests, assuming the Maximum Offering Amount is sold, and $35,805,000 for the Loan. *See "Estimated Use of Proceeds."* Thus, the Trust will be subject to immediate dilution and the Beneficial Owners may recover less than their invested capital upon any eventual sale of the Property. There can be no assurance that the value of the Property will appreciate, or appreciate at a rate sufficient to provide a positive return on investment. Furthermore, the Sponsor does not expect to provide ongoing valuations for the Property on a regular basis to the Beneficial Owners. The foregoing notwithstanding, a cost segregation report will be made available to prospective Purchasers and Beneficial Owners upon request.

The Sale of an Interest May Be Less Profitable Than the *Pro Rata* Share of the Proceeds the Beneficial Owners Would Receive from a Sale of the Property as a Whole. The Interests will be subject to certain agreements and restrictions. Given the form of ownership, it is possible that the amount derived from a sale of an Interest will be less than the *pro rata* share of the proceeds the Beneficial Owners would receive from aggregating the proceeds from the sale of the Property as a whole.

The Fair Market Value of Interests May Deviate from the Established Purchase Price During the Offering. The initial purchase price of an Interest determined at the outset of the Offering is based on the estimated fair market value of the Property and includes certain fees and expenses. Among other items, the economics of the Master Lease as determined at the outset of the Offering were considered in determining the initial purchase price. While actual results may vary from the initial projections, and while the value of the Property, subject to the Master Lease, will fluctuate throughout the Offering, the purchase price of Interests will remain the same throughout the Offering. Because the purchase price will not change in response to evolving economic conditions or valuation, it is possible that, at any time throughout the Offering, the fair market value of an Interest may be higher or lower than the amount a Beneficial Owner paid for such Interest.

The Property Is Not a Diversified Investment as to Asset Class and Region. By the terms of the Trust Agreement (as well as the terms of the Loan Documents), the Trust generally is not permitted to acquire real property other than the Property or any other assets or make any other investments. Because an investment in Interests represents an investment in one property in the limited geographical area of West Virginia, it is not a fully diversified

investment as to asset class and region. Accordingly, the poor performance of the Property would materially and adversely affect your investment in an Interest.

Physical Condition of the Property; No Representations to Purchasers. The Trust will not make any warranties or representations to the Purchasers regarding the condition of the Property. The Trust received a Property Condition Report dated January 21, 2026 (the "**PCR**") in connection with the Property, prepared by Partner Engineering and Science, Inc ("**Partner**"). To the Sponsor's knowledge (as informed by due diligence on the Property), the Sponsor does not believe that there have been material changes to the PCR or the condition of the Property since the PCR was issued. The PCR highlighted immediate needs for repairs of $22,500. The PCR recommended replacement reserves over a 10-year period of $1,862,684 (uninflated).

Upon the Acquisition, the Trust funded from the Loan proceeds $300,000 to fund the Supplemental Trust Reserve and $1,862,684 to fund the Replacement Reserve. The Trust further expects to deposit into the Supplemental Trust Reserve 5% of the Property's net operating income per year, starting on the third anniversary of the Acquisition, for future anticipated capital expenditures (total of $1,925,886). This total of $4,088,570 is higher than the approximately $1,885,184 in immediate repairs and recommended replacement reserves over a 10-year period estimated by the PCR. There can be no assurance of the accuracy of the PCR with regard to future capital expenditure requirements of the Property, or that the Sponsor has budgeted adequately in the Financial Forecast for all such repairs, replacements, and other expenditures that are or become necessary. If the Supplemental Trust Reserve is insufficient (including due to the possibility that reimbursements and other compensation items due the Sponsor may be or have been drawn from resources credited, held or controlled by the Trust, including the Supplemental Trust Reserve), the Trust's Rent could be used by the Trust to reserve for or pay such expenses (instead of being used to pay distributions to Purchasers), or those expenses and costs could possibly be so significant as to require additional capital to be infused which could not be done except through a Transfer Distribution, which would likely have material and adverse tax consequences for Purchasers.

There can be no assurance that the preparers of the PCR will be held liable for any losses in connection with deficiencies in the Property that were not identified in the PCR. Furthermore, there can be no assurance that the financial wherewithal of such preparers would be sufficient to cover any loss that may arise, should they be held liable.

Environmental Problems Are Possible and Can Be Costly. Federal, state and local laws and regulations relating to the protection of the environment may require a current or previous owner or operator of real estate to investigate and clean up hazardous or toxic substances or petroleum product releases at or affecting the Property. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean-up costs incurred by such parties in connection with any such contamination. These laws typically impose clean-up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean-up costs incurred. In addition, third parties may sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site. The Sponsor is also aware that environmental agencies and third parties have, in the case of certain properties with on-site or nearby contamination, asserted claims for remediation, property damage or personal injury based on the alleged actual or potential intrusion into buildings of chemical vapors (e.g., radon) or volatile organic compounds from soils or groundwater underlying or in the vicinity of those buildings or nearby properties. The Sponsor can provide no assurance that the Trust will not incur any material liabilities as a result of vapor intrusion at the Property.

The Property has been evaluated for environmental hazards pursuant to a non-invasive Phase I Environmental Site Assessment Report, dated January 12, 2026 (the "**Phase I Report**") prepared by Partner based on a site assessment conducted on January 2, 2026. The Phase I Report, which consisted of a walk-through observation of the accessible areas and interviews with facility personnel and local agency representatives, limited observations of surrounding properties, and a records review including regulatory databases and historical use information, revealed no evidence of recognized environmental conditions ("**RECs**"), controlled recognized environmental conditions ("**CRECs**"), or historical recognized environmental conditions ("**HRECs**") in connection with the Property. The Phase I Report did identify two business environmental risks ("**BERs**") in connection with the Property.

The first BER identified in the Phase I Report consisted of former onsite mining activities and a restricted mine permit area within which the Southwest portion of the Property is situated. Four surface and underground miners were identified as previously located on and around the Property, all currently closed. The southwest portion of the property is located within a restricted mine permit area with covenants, conditions, restrictions and reservation of

easements contained in Deed by and between Consolidation Coal Company, a Delaware corporation, and Mon-View, LLC, a West Virginia limited liability company, dated June 5, 2003. The restricted mine permit area is for mining rights and includes an easement for access and subterranean passageways. No onsite coal processing equipment was apparent in the historical aerial photographs that Partner reviewed. Partner submitted a request for records to the West Virginia Department of Environmental Protection ("**WVDEP**") and a response is pending. None of the records that Partner reviewed online and on the regulatory database report specify violations or incidents that would potentially represent a recognized environmental condition; however, each mine was determined at one point to be subject to United States Department of Labor, Mine Safety and Health Administration ("**MSHA**") 103I status which is related to excessive liberation of methane or other explosive gas. Development of the current apartment complex likely involved placement of construction fill and landscape cap, reducing tenant access to underlying soils. Use of municipal drinking water further limits exposure pathways for any potential contamination. No information was available regarding any methane gas assessments, specifically associated with the current improvements, performed at the Property or if appropriate methane gas engineering controls were included in the site design and construction. Based on this BER, Partner recommended that further information regarding the potential encroachment of methane gases at the Property should be provided by Property ownership. In the absence of existing information, Partner determined that additional assessment and/or mitigation may be necessary.

The second BER identified in the Phase I Report consisted of elevated radon levels at the Property. Review of the US EPA Map of Radon Zones (as defined in the Phase I Report) placed the Property in EPA Radon Zone 1, corresponding to an average predicted radon level exceeding 4.0 pCi/L. The United States Environmental Protection Agency's (the "**EPA**") threshold for when mitigation is warranted and recommended to reduce exposure to radon gas is 4.0 pCi/L (the "**Action Level**"). At the request of Fortress, Partner conducted limited, short-term radon testing at the Property. Sampling activities were initiated and completed between December 23, 2025, and December 26, 2025. A total of twenty (20) charcoal radon devices (including QA devices) within fourteen (14) residential units were deployed throughout the Property. This included at least 10% of all ground contact units at the Property, however, no fewer than 1 radon test per each building having ground contact units. The devices were retrieved and forwarded to AirChek for radon analysis. Radon was detected at or above the Action Level in three (3) of the locations tested, and elevated radon levels were between 6.2 – 30.5 pCi/L. Based on the results of the radon testing activities, the Radon Survey Report recommended a combination of follow-up testing and mitigation within the units wherein elevated radon levels were detected.

On January 4, 2026, Partner issued a Radon Survey Report focused on short-term follow-up testing. In connection with such supplemental report, radon was detected at or above the US EPA recommended action level of 4.0 pCi/L in three of the apartment units tested. Based on the results of the initial short-term radon testing activities, Partner recommended follow-up testing to determine if mitigation is warranted. According to the analytical data, radon was detected at or above the EPA recommended "action level" (4.0 pCi/L) in nine of the locations tested. As a result, Partner's supplemental report recommended additional mitigation measures and related testing with respect to nine units at the Property.

On February 5, 2026, Partner conducted a Methane Survey at the Property to evaluate the potential for migration of methane into the Buildings as a consequence of a release or releases from historical mining operations. The investigation, which included real-time analysis of ambient air, indoor air, shallow soil, and/or sub-slab soil gas within and/or around all of the **B**uildings, did not identify evidence of methane gas intrusion which may represent a concern to human health and/or the environment. Therefore, Partner recommended no further investigation with respect to methane impacts from historical mining operations at the time of the survey.

A Phase I environmental assessment report generally will not involve any invasive testing, but instead is limited to a physical walk-through or inspection of the Property and a review of the related governmental records. Accordingly, the Sponsor cannot provide any assurance to potential Purchasers that actual environmental problems with the Property will be revealed by the Phase I Report. In light of the material risks and potential liability associated with the discovery of an environmental hazard at the Property, the Purchasers of the Interests should be certain that they understand, and can accept, the risks associated with any known and unknown hazardous substances affecting the Property. In addition, it is possible that an environmental claim may be raised in such a manner that liability could penetrate any limited liability protections otherwise available to shield the owners of an entity from liability, thereby allowing such claims to be enforceable against the Purchasers. Finally, it is possible that the existence of any environmental issues with the Property may make it more difficult, and perhaps impossible, to obtain new financing for the Property.

Governmental Laws and Regulations May Impose Significant Costs. Real property and the operations conducted on real property are subject to federal, state and local laws and regulations relating to protection of the environment and human health. The Property could be subject to liability in the form of fines, penalties or damages for noncompliance with these laws or regulations. These laws and regulations generally govern wastewater discharges, air emissions, the operation and removal of underground and above-ground storage tanks, the use, storage, treatment, transportation and disposal of solid and hazardous materials, the presence of toxic building materials, and other health and safety-related concerns. Some of these laws may impose joint and several liability on the tenants, owners or operators of real property for the costs to investigate or remediate contaminated properties, regardless of fault, whether the contamination occurred prior to purchase, or whether the acts causing the contamination were legal.

Construction of Improvements. Under applicable tax rules, if the Trust was to cause the construction of more than minor, non-structural improvements, this activity could require a Transfer Distribution, which may have adverse tax consequences for the Beneficial Owners.

Risk of Mold Contamination. Mold growth may occur when excessive moisture accumulates in buildings or on building materials, particularly if the moisture problem remains undiscovered or is not addressed over a period of time. Mold contamination has been linked to a number of health problems, which could result in litigation by tenants seeking various remedies, including damages and the ability to terminate their leases. Recently there have been an increasing number of lawsuits against property owners and managers alleging personal injury and property damage caused by the presence of toxic molds. Some of these lawsuits have resulted in substantial monetary judgments or settlements. Insurance carriers generally exclude mold-related claims from standard policies and price mold endorsements at prohibitively high rates. The assessment of the Property in connection with the PCR and Phase I Report included an evaluation of any suspect mold and moisture. Neither the PCR nor the Phase I Report identified any presence of suspect mold activity. No assurance can be given either that any undetected mold condition does not presently exist at the Property or that a mold condition will not arise in the future. A mold condition would create the risk of substantial damages, legal fees and possibly loss of tenants. If a significant mold condition arises in the future at the Property, we could be required to undertake a costly remediation program to contain or remove the mold from the Property and could be exposed to other liabilities that may exceed any applicable insurance coverage. The ability to sell the Property in the event of a mold condition could be significantly hampered if such remediation did not occur.

The Supplemental Trust Reserve May Be Inadequate. The Master Tenant, subject to the express terms of the Loan Documents and the Master Lease, may draw upon the Supplemental Trust Reserve for Landlord Costs and other costs and expenses related to the Property. To the extent that expenses in connection with the Property increase or unanticipated expenses arise, and the available reserves are insufficient to meet such expenses, the Trust may be forced to use some or all of the Rent payment received from the Master Tenant to pay such obligations of the Trust, or to effect a Transfer Distribution in order to raise the necessary capital through a Springing LLC for such purposes, because the Trust is prohibited from raising additional capital. Further, to the extent that the aggregate of the Organization and Offering Expenses and Closing Costs exceed the amounts projected, then any such shortfall will be funded first from savings in other categories and may be funded next from any other available reserves of the Trust, including from the Supplemental Trust Reserve. In addition, construction of more than minor, non-structural improvements out of reserves established by the Trust may require the Trust to effectuate a Transfer Distribution, which may have adverse tax consequences for the Beneficial Owners.

Energy Shortages and Allocations. There may be shortages or increased costs of fuel, natural gas or electric power, or allocations thereof, by suppliers or governmental regulatory bodies in the area where the Property is located. We are unable to predict the extent, if any, to which such shortages, increased prices, or allocations will occur or the degree to which such events might influence the ability of the Property to meet stated goals. If such shortages occurred or such costs increased, however, they could materially and adversely affect the income derived by the Trust from the Property, the value of the Property and the value of the Interests.

Risks Related to Financing of the Property

Risks of Leverage. The Trust holds its interest in the Property subject to the Loan. This use of leverage may increase the return on invested capital. However, it also presents an additional element of risk in the event that the cash receipts from the operation of the Property are insufficient to meet the principal and interest payments on such indebtedness. In order to comply with tax requirements for Section 1031 Exchanges, the Trust is not permitted to obtain new financing and Beneficial Owners are not permitted to make additional capital contributions to the Trust. Thus, if the cash flow from the Property is insufficient to allow the Master Tenant to make the required payments under the Master Lease, including payments required to service the Loan, the Lender may foreclose on the Trust's

interest in the Property and the Beneficial Owners' equity in the Property may be reduced or lost entirely. A Transfer Distribution may make it possible to delay or avoid a foreclosure (because the Springing LLC is not restricted from refinancing the Property or raising new capital) but may, itself, cause adverse tax consequences for the Beneficial Owners. *See "Federal Income Tax Consequences."* The Trust cannot incur any additional borrowings or refinance the Property. Moreover, the cost of any refinancing of the Property after a Transfer Distribution, in the form of interest charges and financing fees imposed by lenders or affiliates of the Sponsor might significantly reduce the profits or increase losses resulting from operation of the Property.

Scheduled Debt Payments Could Adversely Affect the Property's Financial Condition. In the future, the Property's cash flow could be insufficient to meet required payments under the Loan Documents or to pay cash flow to the Trust at expected levels. As a result of any shortfall, the Manager may be forced to postpone capital expenditures necessary for the maintenance of the Property, suspend distributions to Beneficial Owners, or may require a sale or Transfer Distribution. There can be no assurance that the Manager will be able to sell the Property upon acceptable terms, if at all, or that after a Transfer Distribution the Springing LLC would be able to raise additional or sufficient capital to avert a Loan default and possible foreclosure of the Property by the Lender. In either case, Beneficial Owners could lose the entire value of their Interests.

Amounts Due Under the Depositor Loan Exceed the Value of Depositor's Class 2 Beneficial Interests. The Acquisition was funded, in part, through proceeds derived from a Depositor Loan made by DBSO to the Depositor. The total amount due from the Depositor to DBSO to repay the Depositor Loan exceeds the value of the Depositor's Class 2 Beneficial Interests acquired by the Depositor and issued by the Trust because the Depositor Loan includes interest. Such interest constitutes repayment of the Closing Costs funded by the Depositor in connection with the Acquisition.

Events of Default. The Loan is "non-recourse," meaning that the Lender may only seek recovery from the liquidation of its collateral (principally, the Property) for any amounts that remain due under the Loan after a default. However, the Loan Documents contain certain events that would allow the Lender to proceed against the Trust to repay amounts due on the Loan, in addition to foreclosing on the Property and the other collateral for the Loan. Thus, if such events occur, "springing" liability to the Trust may result, including an amount equal, in certain instances, to the full amount of the Loan. *See "Acquisition of the Property and Financing Terms"* for the events under the Loan Documents for which the Trust may have liability beyond the value of the Lender's collateral.

Lender's Approval Rights. The Lender has numerous rights under the Loan Documents, including the right to approve certain changes in ownership and management. Prospective Purchasers are encouraged to review a complete set of the Loan Documents prior to subscribing for the Interests.

Restrictions on Transfer and Encumbrance. The terms of the Loan prohibit the transfer or further encumbrance of the Property or any interest in the Property except with the Lender's prior written consent, which consent may be withheld, or otherwise permitted under the Loan Documents. The Loan Documents provide that upon violation of these restrictions on transfer or encumbrance, the Lender may declare the entire amount of the Loan, including principal, interest, prepayment premiums and other charges, to be immediately due and payable. If the Lender declares the Loan to be immediately due and payable, the Trust will have the obligation to immediately repay the Loan in full. If the Trust is unable to obtain replacement financing or otherwise fails to immediately repay the Loan in full, the Lender may invoke its remedies under the Loan Documents, including proceeding with a foreclosure sale that is likely to result in the Beneficial Owners losing the entire value of their Interests. Further, since the Trust is prohibited from borrowing additional funds or from accepting additional capital contributions, the Trust would in such a situation be required to effectuate a Transfer Distribution into the Springing LLC.

Ability to Repay the Loan. The ability of the Trust to repay the Loan will depend in part upon the sale or other disposition of the Property prior to, at the latest, the maturity date of the Loan. There can be no assurance that any such sale can be accomplished at a time or on such terms and conditions as will permit the Trust to repay the outstanding principal amount of the Loan. Financial market conditions in the future may affect the availability and cost of real estate loans, making real estate financing difficult or costly to obtain for potential buyers of the Property.

In the event that the Trust is unable to sell the Property prior to the maturity date of the Loan, the Trust may be required to effectuate a Transfer Distribution in order to allow the Springing LLC to seek to refinance the Loan. However, market conditions and the interest rate environment at that time could cause the cash flow from the Property to fluctuate and could impact capitalization rates, both of which could negatively impact the value of the Property and limit the Springing LLC's sale or refinancing options. The Springing LLC may not be able to obtain refinancing on

terms as favorable as the Loan. If additional funds are not available from a sale, refinancing or additional capital contributions to the resulting Springing LLC, the Springing LLC may be subject to the risk of losing the Property through foreclosure. Any such Transfer Distribution or foreclosure may have adverse tax consequences for the Beneficial Owners. *See "Federal Income Tax Consequences."*

Availability of Financing and Market Conditions. Market fluctuations in real estate financing may affect the availability and cost of funds needed in the future for the Property. Moreover, credit availability has been restricted in the past and may become restricted again in the future. Restrictions upon the availability of real estate financing or high interest rates for real estate loans could adversely affect the Property and the ability of the Trust to sell the Property at a profit or at any price.

An Event of Default under the Loan Documents Requires that the Trust Effect a Transfer Distribution and that the Master Lease Terminate. The Loan Documents generally provide that upon an event of default under the terms of the Loan Documents, the Trust must effect a Transfer Distribution and, contemporaneously therewith, the Master Lease will terminate. In addition, if the Trust were to effect a Transfer Distribution not in connection with an event of default under the Loan Documents, the Master Lease is likewise required to terminate. In the event that the Master Lease were required to terminate, either in connection with an event of default under the Loan Documents or otherwise, Beneficial Owners would no longer benefit from the interposition of the Master Lease and would instead be directly subject to the risks of the Trust (or Springing LLC, following a Transfer Distribution) being in direct contractual privity with end-tenants. *See "Risk Factors – Tax Risks – Transfer Distribution to the Springing LLC."*

Macroeconomic Risks

Changes in Global Economic and Capital Market Conditions May Significantly Affect the Value of the Property and Returns to Investors. Your investment is subject to risks generally incident to the ownership of real property, including changes in global, national, regional or local economic and capital market conditions and other factors particular to the location of the Property. Adverse changes in the general economic or business environment may affect any or all of the tenants at the Property, as well as potential tenants, by decreasing incomes, reducing the number of available jobs in a given market area or otherwise changing their economic circumstances. Challenging economic conditions may have many consequences, and the financial condition of the tenants occupying the Property may be adversely affected. This may impact the ability of tenants to satisfy rental payments under leases, which may result in the Master Tenant having to reduce rental rates in order to retain the tenants, or an increase in the number of bankruptcies or insolvency proceedings of tenants and lease guarantors. Bankruptcies or insolvency could delay efforts to collect rent and any past due balances under the relevant leases and ultimately could preclude collection of these sums. Further, challenging economic conditions may require otherwise desirable tenants to seek lower rental rates. These factors could cause the Trust's cash flow and operating results to decrease, which could have a material adverse effect on its ability to sustain distributions. Accordingly, an economic downturn or rise in interest rates could make it more difficult for the Master Tenant to lease or sell the Property.

Moreover, the cost of operating the Property could increase materially as a result of increases in expenses and other factors which may be influenced by general economic conditions, which costs may or may not be passed through to the tenants of the Property. The value and net revenue of the Property at any time will be dependent upon many factors beyond the control of the Trust. Certain expenditures associated with the Property (principally real estate taxes, fuel, utility charges and repair and maintenance costs) are not generally decreased by events adversely affecting the income from the Property. In addition, certain expenses (such as real estate taxes, fuel and maintenance expenditures) will not be reduced by recessionary conditions, but will increase with inflation and may increase at a higher rate than the local market area will allow to be absorbed through increased rents. Future increases in interest rates and any resulting shortages of mortgage funds may render the future sale of the Property difficult. To the extent these cost increases cannot be passed on to tenants, such increases would cause the Trust's cash flow and operating results to decrease, which could have a material adverse effect on its ability to sustain distributions.

Rising interest rates could also make alternative interest bearing and other investments more attractive and, therefore, potentially lower the relative value of the Beneficial Owners' Interests. The risk associated with an investment in the Property will be more severe during periods of economic slowdown or recession if these periods are accompanied by deteriorating fundamentals and declining values in the real estate industry. To the extent that there is a general economic slowdown or real estate fundamentals deteriorate, it may have a significant and adverse impact on the revenues, results from operations, financial condition, liquidity, overall business prospects and ultimately the Trust's ability to make distributions to the Beneficial Owners.

Inflation or Deflation May Adversely Affect the Trust's Financial Condition and Results of Operations. Increased inflation could have an adverse impact on floating rate mortgages, interest rates and general and administrative expenses, as these costs could increase at a rate higher than rental and other revenue. Inflation could also have an adverse effect on consumer spending which could impact tenants' incomes and, in turn, percentage rents, where applicable. Conversely, deflation could lead to downward pressure on rents and other sources of income.

The Anticipated Results of Operations May Not Be Accurate. The anticipated results of operations set forth in this Memorandum are based upon current estimates of income and expenses relating to the operation of the Property. If the assumptions for the Property do not prove correct, the Beneficial Owners who own Interests issued by the Trust will have difficulty in achieving their anticipated results. The anticipated results of operations assume occupancy levels and certain rental rates. There can be no assurance that the Property can achieve or maintain the occupancy level or rate increases anticipated. Some of the other underlying assumptions may not materialize and unanticipated events and circumstances may occur. Therefore, the actual results achieved during the Trust's ownership of the Property may vary from those anticipated, and the variation may be material. As a result, the rate of return to the Trust and the Beneficial Owners may be lower than that projected. Any return to the Beneficial Owners on their investment will depend on the ability to operate the Property profitably or ultimately sell the Property at a profit, which, in turn, will depend upon economic factors and conditions beyond the control of the Trust.

Illiquidity May Limit the Manager's Ability to Sell the Property in Response to Changes in Economic or Other Conditions. Because real estate investments undertaken by the Trust are illiquid, it could be difficult for the Trust to promptly sell the Property on favorable terms. This may limit the Manager's ability to react timely to adverse changes in the performance of the Property or changing market conditions. These restrictions could adversely affect the results of operations and financial condition.

Social Unrest May Affect the Value of the Property and Returns to Investors. In recent years, certain events have led to protests, demonstrations, marches and other forms of political and social activism on a local, regional, national and international level, as well as rioting in some instances. Such activism, which has ranged from peaceful to, in some instances, violent, has resulted in curfews, the deployment of police and other local and national interference, and could lead to increased political and social volatility and uncertainty. While the overall effect of such activism remains unknown, this type of volatility and uncertainty could materially adversely impact the Interests. For example, as a result of social unrest, the Property could be affected by property damage, economic uncertainty and other byproducts of social unrest.

International Conflicts. International conflicts between nations may have a material adverse impact on, and result in significant losses to, the Trust. In particular, the Property may suffer significant increases in operating costs (including, among other reasons, as a result of the substantial increase in energy prices), reductions in customers, losses from cyberattacks, significant reductions in revenue and growth, and/or unexpected operational losses and liabilities. Governmental actions (sanctions-related, military or otherwise) may cause additional disruption and constrain or alter existing financial, legal and regulatory frameworks and systems in ways that adversely impact the Trust.

Tariffs. Some political leaders around the world (including in the United States and certain European nations) have been elected on protectionist platforms, fueling doubts about the future of global free trade. The U.S. government recently imposed tariffs on foreign goods. Some foreign governments have instituted retaliatory tariffs on U.S. goods. Global trade disruption, significant introductions of trade barriers and bilateral trade frictions, together with any future downturns in the global economy resulting therefrom, could adversely affect the financial performance of the Trust. Furthermore, to the extent any trade dispute escalates into a "trade war," there could be significant and unforeseen future economic impacts and consequences for the Trust.

Risks Relating to the Operation of the Property

Insurance; Uninsured Losses. The Master Tenant has obtained general liability and business interruption insurance for the Property. If a loss occurs that is partially or completely uninsured, the Beneficial Owners may lose all or a part of their investment. The Trust may be liable for any uninsured or underinsured personal injury, death or property damage claims. Liability in such cases may be unlimited. While insurance may help reduce the risk of loss, it increases costs and thus lowers the potential return to the Beneficial Owners. Furthermore, insurance procured with respect to the DST, the Manager, the Master Tenant and their respective affiliates is expected to be part of a master insurance policy held by Fortress. It is anticipated that the Trust, the Manager, the Master Tenant and other entities in the Trust's structure will ratably share in the costs associated with their respective coverage and with pre-funding loss

reserves under the master insurance policy. Accordingly, cost sharing under such master insurance policy may or may not be equitable.

Regulatory Matters. The value of the Property may be adversely affected by legislative, regulatory, administrative, and enforcement actions at the local, state and national levels in the area, among others, of environmental controls. In addition to possible increasingly restrictive zoning regulations and related land use controls, such restrictions may relate to air and water quality standards, noise pollution and indirect environmental impacts such as increased motor vehicle activity.

Reliance on Management. Under the Trust Agreement, the Manager has the right to make administrative decisions on behalf of the Trust. Also, the Manager has the sole and absolute discretion to determine when to sell the Property and on what terms. The Manager has other extensive powers and authority, some of which are limited by the express terms of the Trust Agreement. In the event of a Transfer Distribution, however, the Manager or its affiliate, as the manager of the Springing LLC, would be granted expanded powers and the right to receive additional compensation. Accordingly, no Purchaser should purchase Interests unless such Purchaser recognizes that the Trust is limited in its ability to manage the Property and such Purchaser is willing to entrust such limited management of the Property and the power to sell the Property to the Delaware Trustee and the Manager, and after a Transfer Distribution the Purchaser is willing to entrust all aspects of the management of the Springing LLC to the Manager or one of its affiliates as its manager. *See "The Leadership Team" and "Summary of the Trust Agreement – Termination of the Trust to Protect the Property; Transfer Distribution."* Furthermore, under the Trust Agreement, the Delaware Trustee has the power and authority to remove the Manager for cause (fraud or gross negligence causing material damage to, or diminution in value of, the Property), but only if the Lender consents (to the extent there is an outstanding Loan).

Reliance on Third-Party Service Providers. The Trust relies, and will continue to rely, on various third party service providers (each, a "**Service Provider**") in connection with the operation and administration of the Trust and its activities. The Trust has limited, if any, control over the day-to-day activities of such Service Providers, and Beneficial Owners will not have any direct contractual relationship with such parties. The Trust's ability to achieve its investment objectives and to operate in accordance with applicable law and governing documents is dependent, in part, upon the accuracy, timeliness, and completeness of services provided by such Service Providers. Although the Manager and its affiliates intend to conduct reasonable diligence in selecting and monitoring the Service Providers, there can be no assurance that such Service Providers will perform their obligations in a satisfactory or uninterrupted manner. The termination, replacement, insolvency, or withdrawal of any key Service Provider could disrupt the Trust's operations and may result in operational disruption and/or additional costs. No assurance can be given that suitable replacement providers could be engaged on comparable terms or on a timely basis. Prospective Purchasers should be aware that the Trust's performance and operational integrity are, in part, dependent on the performance of third parties over whom the Trust may have limited oversight and control. Any failure by such Service Providers could materially and adversely affect the Trust and its Beneficial Owners.

Conflicts. The Manager and its affiliates are subject to conflicts of interest between their activities, roles and duties for other entities and the activities, roles and duties they have assumed on behalf of the Trust. Conflicts exist in allocating management time, services and functions between their current and future activities and the Trust. None of the arrangements or agreements described, including those relating to the purchase price of the Property or compensation, is the result of arm's-length negotiations. *See "Conflicts of Interest."*

The Property Manager is Subject to Additional Conflicts of Interest. The Property Manager, a third party with respect to the Sponsor, is subject to conflicts of interest among its activities, roles and duties for other entities and the activities, roles and duties it has assumed on behalf of the Trust. Conflicts exist in allocating management time, services and functions between its current and future activities and the Trust. Further, the Property Manager is a third party with respect to the Sponsor or the Trust and does not intend to invest its own funds in the Interests. Accordingly, the Property Manager's interests may not be aligned with those of the Purchasers. For example, if the Property Manager or any of its affiliates were to acquire residential properties in the vicinity of the Property, then the Property Manager could direct tenants away from renewing their rental agreements and toward leasing units at such other properties.

No Substantial Assets of the Manager, the Master Tenant or DST Holdings. The Manager, Master Tenant and DST Holdings are newly-formed entities and do not have any substantial assets. Thus, there is no assurance that the Manager, the Master Tenant or DST Holdings will have the financial resources to satisfy their obligations under the Trust Agreement, the Master Lease, the Property Management Agreement or as otherwise may be directly or

indirectly required with respect to the Offering and operation of the Trust. Neither the Sponsor, the Manager, the Master Tenant nor DST Holdings is obligated to invest or provide additional capital on behalf of the Trust, the Beneficial Owners or the Property. DST Holdings has agreed to initially capitalize the Master Tenant with a Demand Note in the amount of $1,500,000. This Memorandum does not contain financial statements for the Sponsor, the Manager or the Master Tenant.

Compensation and Fees. The Sponsor and certain of its affiliates will receive certain compensation from the Trust for services rendered regardless of whether any sums are distributed to the Beneficial Owners. *See "Compensation and Fees."*

Risks Relating to the U.S. Securities Laws and Regulations

Securities Act of 1933. The Interests have not been and will not be registered under the Securities Act. The Interests are offered in reliance upon an exemption from registration under the Securities Act provided by Section 4(a)(2) thereof and the Regulation D safe harbor promulgated thereunder. Each prospective Purchaser must be an "accredited investor" (as defined in Rule 501(a) of Regulation D) and will be required to represent, among other customary private placement representations, that it is acquiring its Interest in the Trust for its own account for investment purposes only and not with a view to resale or distribution.

Further, each Purchaser must be prepared to bear the risk of the investment for an indefinite period, since Interests issued by the Trust cannot be transferred or resold except as permitted under the Securities Act and any applicable state or non-U.S. securities laws. There is no public market for the Interests and no such market is expected to develop in the future. The Interests may not be sold or transferred except as permitted under the Trust Agreement.

Investment Company Act of 1940. It is anticipated that the Trust will be exempt from registration under the Investment Company Act of 1940, as amended (the "**Investment Company Act**"), by qualifying for an exclusion from the definition of an "investment company" thereunder. The Trust will rely on the exemption from registration contained in (i) Section 3(c)(1) of the Investment Company Act for issuers that are not making a public offering of securities and whose outstanding securities are beneficially owned by not more than 100 persons, (ii) Section 3(c)(5)(C) of the Investment Company Act as an entity primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate, or (iii) any other exemption that may be available under the Investment Company Act. In the alternative, the Trust may also be able to rely on the exemption afforded under Section 3(a)(1)(C) of the Investment Company Act that provides relief from the registration requirements otherwise imposed thereunder if the Trust is not engaged in the business in investing, reinvesting, owning, holding, or trading in securities and does not own investment securities having a value exceeding 40% of the Trust's total assets.

If the Trust cannot comply with an exemption from such requirements, the Trust may be obligated to register as an "investment company" and will be subject to a variety of substantive requirements under the Investment Company Act. These requirements include:

- limitations on capital structure;
- restrictions on specified investments;
- prohibitions on transactions with affiliates; and
- compliance with reporting, record keeping, voting, proxy disclosure and other rules and regulations that would significantly change and increase the costs of the Trust's operations.

If the Trust is required to register as an investment company but fails to do so, it will be prohibited from engaging in this Offering and criminal and civil actions could be brought against the Trust.

Investment Advisers Act of 1940. The Manager is not required to register and does not anticipate registering as an investment adviser under the Advisers Act.

Securities Exchange Act of 1934. It is not expected that the Trust will be required to register the Interests under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). As a result, the Trust will not be subject to the periodic reporting and related requirements of the Exchange Act. Beneficial Owners should only expect to receive the information and reports required to be delivered pursuant to the Trust Agreement and applicable law.

Regulation Best Interest. Commencing June 30, 2020, broker-dealers and their associated persons have been required to comply with the SEC's Regulation Best Interest ("**Reg BI**"), which established a new standard of

conduct for participating brokers under the Exchange Act when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer, including the following:

- the requirement that participating brokers refrain from putting the financial or other interests of the participating broker ahead of the retail customer;
- a new disclosure document, the consumer or client relationship summary, or Form CRS, which requires both investment advisers and participating brokers to provide disclosure highlighting details about their services and fee structures; and
- interpretative guidance that establishes a federal fiduciary standard for investment advisers.

Under SEC guidance concerning Reg BI, a participating broker recommending to sell an Interest in the Trust should consider a number of factors, including but not limited to, cost and complexity of the investment and reasonably available alternatives, which are likely to exist, may be less costly or have a lower investment risk, in determining whether there is a reasonable basis for the recommendation. However, participating brokers may recommend a more costly or complex product as long as they have a reasonable basis to believe it is in the best interest of a particular retail customer. If participating brokers instead choose alternatives to an investment in the Trust, many of which likely exist, the Trust's ability to raise capital will be adversely affected.

Economic Sanctions and Export Controls; Anti-Money Laundering. Economic sanctions laws in the United States and other jurisdictions may prohibit or otherwise restrict the Manager, its professionals, the Trust and its affiliates from engaging in transactions with companies based in, doing business with, or otherwise relating to certain countries, industry sectors and/or certain individuals and entities. The U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"), U.S. Department of Commerce, and U.S. Department of State administer and enforce laws, executive orders and regulations establishing U.S. economic and trade sanctions and export controls. Such sanctions and regulations prohibit, among other things, transactions with, and the provision of certain services or goods to, certain foreign countries, territories, entities and individuals. These entities and individuals include specially designated nationals, specially designated narcotics traffickers and other parties the subject of sanctions programs and export control restrictions. The lists of OFAC prohibited countries, territories, persons and entities, including the List of Specially Designated Nationals and Blocked Persons, as such list may be amended from time to time, can be found on the OFAC website at www.treas.gov/ofac. Certain programs administered by OFAC prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the lists maintained by OFAC. In addition, export regulations may prohibit or require pre-approval of exports of certain restricted goods or technology to certain persons and certain jurisdictions. The economic sanctions and related laws of different jurisdictions in which the Trust and its affiliates may operate also may conflict with one another, such that compliance with all applicable laws may be difficult.

In addition, risks of sanctions violations in the banking industry are elevated, and OFAC has taken significant actions in response to U.S. and non-U.S. financial institutions' perceived failures to comply with OFAC sanctions. Failure by the Trust and its affiliates to comply with OFAC or other relevant sanctions could have serious legal and reputational consequences.

Corporate Transparency Act. As of the date of this Memorandum and pursuant to an interim final rule issued by the Financial Crimes Enforcement Network ("**FinCEN**"), the Trust is currently exempt from the Beneficial Ownership Information ("**BOI**") reporting obligations under the Corporate Transparency Act (the "**CTA**"). Under the CTA, "reporting companies" (as defined under the CTA) are required to file BOI reports with FinCEN disclosing information about the entity itself and "beneficial owners" (also as defined under the CTA) of the entity. BOI consists of identifying information about the individuals who directly or indirectly own or control a company, i.e., who (i) exercise substantial control over a reporting company, or (ii) own or control at least 25% of the ownership interests of a reporting company. When filing BOI reports with FinCEN, a reporting company is required to identify and report information about itself and each of its beneficial owners, including: name, birthdate, address, and a unique identifying number and issuing jurisdiction from an acceptable identification document (and the image of such document), such as a driver's license, State ID, or passport. If subject to the reporting obligations, the Trust would be required to file a BOI report identifying and disclosing certain information with respect to all Purchasers who exercise substantial control or own at least 25% of its Interests (and update its BOI report if that information changes). As a result, Purchasers may be required to furnish any such identifying information and authorize the Trust to disclose it to FinCEN. Certain Purchasers may initially be over 25%, and then, after additional sales, may be diluted to below 25%, in which case such Purchasers will be reported and then removed from later BOI report updates. Purchasers with a FinCEN ID may supply such ID in lieu of their personal information. In connection with the ongoing developments

regarding the implementation of the CTA, the Manager expects to undertake any required actions to ensure that the Trust remains compliant with any BOI reporting obligations it may have with respect to the CTA.

Bank Holding Company Act. The U.S. Bank Holding Company Act of 1956, as amended from time to time, and the rules promulgated thereunder (collectively, the "**BHC Act**"), including as modified by the Dodd-Frank Act and the "Volcker Rule" thereunder, contain restrictions on certain investors that are (or that have affiliates or certain interests in any entity that is) a U.S. banking organization or a non-U.S. bank with a banking presence in the United States from acquiring and holding certain interests in certain types of investment products. Interests issued by the Trust are not freely transferable, are not readily tradable on any exchange or market, and there are no redemption or withdrawal rights, even as of a result of regulatory matters. As a result, Interests must be held on a long-term basis. Each investor should carefully review and familiarize itself with these rules and regulations and consult with its own counsel on how the Volcker Rule, the Dodd-Frank Act and the BHC Act may impact the investor, including as a result of its investment in the Trust.

Offering Risks

No Market for Interests. The transfer of Interests will be subject to certain limitations. *See "Summary of the Trust Agreement – Transfer Rights."* Moreover, it is not anticipated that any public market for Interests will develop, and the transfer of Interests may result in adverse tax consequences for the transferor. *See "Federal Income Tax Consequences."* Consequently, Purchasers of Interests may not be able to liquidate their investments in the event of emergency or for any other reason. Moreover, Purchasers are specifically notified that Interests are not likely to be readily accepted as collateral for outside financing. Any purchase of Interests, therefore, should be considered only as a long-term investment.

Purchase Price of Interests. The purchase price of the Interests is based on the purchase price the Trust paid to acquire the Property, which in turn is derived in part from the value and projected cash flow of the Property, and includes Sales Commissions and Expenses and Closing Costs. If the Trust is unable to sell the Property at a price which would net (after payment of applicable expenses) at least the aggregate of the purchase price paid for the Interests, the Purchasers would suffer a loss on their investment.

Risk that Purchaser Will Not Acquire Interest. After identifying the Property, a prospective Purchaser may not be accepted, or may be rejected as an investor for any reason or for no reason at all and such Purchaser may therefore lose the benefit of a Section 1031 Exchange. It is suggested and anticipated that Purchasers will attempt to mitigate these risks by identifying multiple properties in connection with their Section 1031 Exchange.

Forum Selection and Governing Law. Any disputes arising from the Master Lease must be brought in a court of competent jurisdiction in the state where the Property is located. Additionally, disputes arising under the Master Lease will be adjudicated under the law of the state where the Property is located. Any disputes arising from the Purchase Agreement, Trust Agreement or Springing LLC Agreement (collectively, the "**Offering Documents**") must be brought in a court of competent jurisdiction in New York County, New York. Accordingly, any actions brought under any of the Offering Documents in courts not located in New York County, New York may be dismissed for improper venue. By purchasing Interests pursuant to the Purchase Agreement, the purchaser waives their right to a jury trial. Further, should any of the Offering Documents be the subject of any dispute, such dispute will be adjudicated under Delaware law.

Risks Relating to U.S. Anti-Money Laundering Regulation. The Sponsor and/or the Manager may be required to comply with Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "**PATRIOT Act**"), the Bank Secrecy Act, including as amended by the PATRIOT Act, and any relevant regulations and any other applicable laws or regulations. The Trust, the Sponsor and/or the Manager may be required to obtain a detailed verification of the identity of each prospective investor or Beneficial Owner, and the source of funds used to subscribe for Interests in, or to make capital contributions to, the Trust or Springing LLC. Each prospective investor and Beneficial Owner will be required to represent that it is not a person with whom the Trust or the Sponsor is prohibited from dealing pursuant to applicable law and regulations imposing economic and trade sanctions. Should a prospective investor or Beneficial Owner refuse to provide any information required for verification purposes, the Trust may refuse to accept a subscription from such prospective investor or may cause the withdrawal of any such Beneficial Owner from the Trust. The Trust, the Sponsor and/or the Manager may request such additional information at any time from prospective investors or Beneficial Owners as is necessary in order to comply with the PATRIOT Act, U.S. Executive Order 13224, and other relevant U.S. or other anti-money laundering legislation and regulations. The Trust may require such Beneficial Owner to

withdraw from the Trust if the Sponsor reasonably deems it necessary to do so in order to comply with any relevant anti-money laundering legislation and regulations applicable to the Trust, the Sponsor, the Manager or any of the Trust's other service providers, or if so ordered by a competent court or regulatory authority. Beneficial Owners will be expected to provide additional or updated identification documents from time to time pursuant to ongoing client due diligence requirements under relevant laws and regulations. Also, the Trust, the Sponsor and/or the Manager may from time to time be obligated to file reports with regulatory authorities in various jurisdictions with regard to, among other things, the identity of the Beneficial Owners and suspicious activities involving the Interests.

Anti-money laundering laws and regulations are likely to continue to evolve in the future and require the Trust, the Sponsor, the Manager or other service providers to the Trust to establish additional anti-money laundering procedures, collect information with respect to the Beneficial Owners, share information with governmental authorities with respect to the Beneficial Owners, and/or to implement additional restrictions on the transfer of Interests. The Sponsor therefore reserves the right to request such information as is necessary to verify the identity of the Beneficial Owners and the source of the monies used to acquire Interests issued by the Trust, or as is necessary to comply with applicable sanctions and any customer identification programs required by the U.S. Treasury Department (the "**Treasury**"), FINCEN, the SEC and any other applicable regulatory body, and to take such other actions that are necessary to enable it to comply with applicable anti-money laundering laws.

Impact of Leverage on Section 1031 Exchange. The Trust's interest in the Property is subject to financing in the form of the Loan. Code Section 1031 generally requires taxpayers to offset debt on their Relinquished Property with equal or greater debt on their Replacement Property (or additional cash from another source). Purchasers who are exchanging Relinquished Property with a larger amount of debt than the proportionate amount of the Loan they are deemed to have assumed for tax purposes in connection with the acquisition of an Interest may recognize taxable gain (although additional cash from another source may offset the reduction in debt). Each Purchaser will have its own unique debt and other Section 1031 Exchange issues. Therefore, each Purchaser must seek the advice of its own independent tax advisor as to qualification for tax deferral under Code Section 1031 and the Treasury Regulations promulgated thereunder, including the debt replacement rules.

Timing of Sale of the Property. Beneficial Owners should not expect a sale within any specified period of time. Although the Trust Agreement allows the Manager to sell the Property at any time that, in the Manager's sole and absolute discretion, a sale is appropriate, it is currently anticipated that the Trust will hold the Property for at least two years. The decision to sell the Property will be made at the sole and absolute discretion of the Manager, and the Beneficial Owners will not have any right to participate in the decision to sell the Property.

Operation as a Limited Liability Company after a Transfer Distribution. If a Transfer Distribution occurs and the Property is transferred to a Springing LLC, the manager of such Springing LLC will have exclusive discretion in the management and control of the business and affairs of the Springing LLC. A copy of a limited liability agreement for a Springing LLC is attached to the Trust Agreement as an exhibit. The members of the Springing LLC will not have the right to take part in the management or control of the business or affairs of the Springing LLC. The members are permitted to vote only in a limited number of circumstances and can remove the manager of the Springing LLC only for cause. The Manager has the right to sell the Property at any time that, in the Manager's sole and absolute discretion, a sale is appropriate. Such sale could occur at a time that would be adverse to the interests of any given member either from a financial or tax standpoint. The manager of the Springing LLC, as a holder of membership interests in the Springing LLC, if it holds any interests therein, may have conflicts of interest with respect to the Springing LLC and the members. The manager of the Springing LLC is entitled to certain limitations of liability and to indemnity by the Springing LLC against liabilities not attributable to its fraud or gross negligence. Such indemnity and limitation of liability may limit rights that members would otherwise have to seek redress against the manager of the Springing LLC. *See "Summary of Certain Provisions of "Springing LLC" Limited Liability Company Operating Agreement."*

An affiliate of the Manager is expected to serve as the manager of the Springing LLC and will be a newly-formed entity with limited financial resources. It will have no obligation to invest in or otherwise provide capital to the Springing LLC. Thus, the Springing LLC may not be able to satisfy its financial obligations, which could negatively impact the Beneficial Owners who, upon the occurrence of a Transfer Distribution, would become members of the Springing LLC. A member may become liable to the Springing LLC and to its creditors for and to the extent of any distribution made to such member if, after giving effect to such distribution, the remaining assets of the Springing LLC are not sufficient to pay its outstanding liabilities (other than liabilities to the members on account of their membership interests in the Springing LLC). It is not expected that there will be any market for membership interests

in the Springing LLC. Thus, members may not be able to liquidate their investments in the event of an emergency or for any other reason.

In addition, the Loan Documents allow the Lender, at its option, to terminate the Master Lease in connection with an event of default under the Loan Documents or upon the occurrence of a Transfer Distribution. If the Lender were to exercise its option to terminate the Master Lease, the Springing LLC would no longer benefit from the Master Lease.

This is a "Best-Efforts" Offering with No Minimum Offering Contingency. There is no minimum amount of Offering proceeds that must be raised or minimum number of Purchasers required in connection with this Offering. Accordingly, if the Sponsor is unable to sell all of the Interests, the Depositor will retain Class 2 Beneficial Interests. The ownership of beneficial interests issued by the Trust by the Depositor, an affiliate of the Sponsor, involves certain risks that potential Purchasers should consider, including, but not limited to, the fact that there may be conflicts of interest between the objectives of the Purchasers and that of the Sponsor, or, if the Offering is not fully subscribed, that a significant amount of the Trust's beneficial interests will not have been acquired by disinterested Purchasers after an assessment of the merits of the Offering.

Risks of Cyberattacks May Disrupt Business and Result in Losses or Limit Growth. The Manager relies on computer programs and systems (and may rely on new systems and technology in the future) for various purposes, including paying Trust expenses, monitoring Trust investments and other financial matters and generating risk management and other reports that are critical to the business and operations of the Trust and the oversight of their activities. These information technology systems may continue to increase in sophistication and frequency of use in the future. Cybersecurity incidents and cyber-attacks have been occurring globally at a more frequent and severe level and will likely continue to increase in frequency in the future. The systems used are subject to a number of different threats or risks that could adversely affect the Trust and its investors. There can be no assurance that measures the Trust takes to ensure the integrity of its systems will provide protection, especially because cyberattack techniques used change frequently or are not recognized until successful. Cybersecurity risks could result in the loss of data, interruptions in the Trust's business, damage to its reputation, and subject the Trust and/or the Manager to regulatory actions, increased costs and financial losses, each of which could have a material adverse effect on the Trust's business and results of operations.

Although the Sponsor and the Manager have implemented various measures to manage risks relating to these types of events, if these systems are compromised, become inoperable for extended periods of time or cease to function properly, the Sponsor, the Manager, and/or the Trust may require time or incur expenses to fix or replace them and to seek to remedy the effects of such issues. The failure of these systems and/or of disaster recovery plans for any reason could cause significant interruptions in the Sponsor's, the Manager's, and/or the Trust's operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data, including personal information relating to the Beneficial Owners. Such a failure could harm the Sponsor's, the Manager's, and/or the Trust's reputation, subject any such entity and its respective affiliates to legal claims or otherwise adversely affect their business and financial performance.

Cyberattacks on the Sponsor, the Manager, and/or the Trust could involve attempts that are intended to obtain unauthorized access to proprietary information or personal identifying information of the Trust's investors, destroy data or disable, degrade or sabotage the Trust's systems, or divert or otherwise steal funds, including through the introduction of computer viruses and other malicious code. Cyberattacks and other security threats could originate from a wide variety of external sources, including cybercriminals, nation-state hackers, hacktivists and other outside parties. Cyberattacks and other security threats could also originate from the malicious or accidental acts of insiders, such as employees, or third party agents and consultants of the Trust.

The costs related to cyber or other security threats or disruptions may not be fully insured or indemnified by other means. In addition, the Trust could also suffer losses in connection with updates to, or the failure to timely update, its information systems and technology. The Trust will be reliant on third party service providers for certain aspects of its business, including for its administration, as well as for certain information systems and technology, including cloud-based services. These third party service providers could also face ongoing cyber security threats and compromises of their systems and as a result, unauthorized individuals could gain access to certain confidential data.

Changes in Cybersecurity and Data Protection Laws and Regulations. The adoption, interpretation and application of consumer and data protection laws or regulations are often uncertain and in flux. The federal and state government bodies and agencies have in the past adopted, and may in the future adopt, laws and regulations affecting

data privacy. These include rules and regulations promulgated under the authority of federal government bodies and agencies, state attorneys general, legislatures and consumer protection agencies.

FMV Option. The Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more Exchange Entities for cash. The Cash Value will equal the then fair market value of such Beneficial Owner's whose Interests are acquired for cash as of the date the FMV Option is exercised, *less*, solely with respect to such Beneficial Owner, the Cash Redemption Fee, which Cash Redemption Fee will be remitted to the Manager *provided*, *however*, that the Manager may reallow a portion of the Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee will be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. The foregoing notwithstanding, the Option Holder may alternatively present each Beneficial Owner the option but not the obligation to receive Units of an equal aggregate value to the Cash Value of such Beneficial Owner's Interests, as of the date the FMV Option is exercised (in lieu of the Cash Value), in each case pursuant to an Exchange intended to qualify as a tax-deferred exchange under Code Section 721. Any such election by a Beneficial Owner to receive either the Cash Value or Units will apply to all of such Beneficial Owner's Interests subject to the FMV Option, and no Beneficial Owner may elect to receive cash with respect to a portion of its Interests and Units with respect to the remainder. For the avoidance of doubt, no Cash Redemption Fee will be charged, imposed, or deducted in connection with any Exchange in which a Beneficial Owner chooses to receive Units in lieu of cash, and the value of such Units will be determined without regard to the Cash Redemption Fee. For the avoidance of doubt, if the Option Holder offers Beneficial Owners the opportunity to exchange their Interests for Units in connection with the exercise of the FMV Option, such Exchange will always be at the option of each Beneficial Owner, and in no event will Beneficial Owners be required to exchange their Interests for Units.

In order to exercise the FMV Option, the Option Holder will provide each Beneficial Owner with a Notice of Exchange, the form of which is attached as an exhibit to the Trust Agreement. If a Beneficial Owner elects to have the Option Holder exchange the Beneficial Owner's Interests issued by the Trust for Units, such Beneficial Owner will be required to notify the Option Holder in writing within 20 Business Days (as defined in the Trust Agreement) after the date on which the Option Holder mails the Unit Notice. If such Beneficial Owner does not provide a Unit Notice to the Option Holder within 20 Business Days after the mailing date of the Notice of Exchange, such Beneficial Owner will be deemed to have irrevocably elected to receive cash consideration pursuant to the exercise of the FMV Option contained in the Trust Agreement.

The fair market value of a Beneficial Owner's Interests will be determined by multiplying: (i) the Beneficial Owner's percentage of Interests issued by the Trust, by (ii) the fair market value of the Property, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion; *provided*, that such appraisal shall have been completed within 60 days of the date the FMV Option is exercised. If a Beneficial Owner does not so elect to have its Interests purchased for Units, it will receive cash in an amount equal to the Cash Value, based upon the then-fair market value of the Beneficial Owner's Interests issued by the Trust. For the avoidance of doubt, each Beneficial Owner's election to receive the Units (or receive Cash Value) will be made individually and independently of the elections of other Beneficial Owners.

Should the Option Holder exercise the FMV Option, any Purchaser who receives Units or cash in exchange for their Interests will no longer have a direct interest in the Trust. If a Purchaser becomes a holder of Units, such Units will be subject to the terms of the Exchange Entity's Operating Agreement, and no such Exchange Entity has been identified as of the date of this Memorandum. In addition, if and after the FMV Option is exercised, a Purchaser will generally not be able to engage in a subsequent, individual Section 1031 Exchange. *See "Summary of the Trust Agreement."*

Purchasers May Have to File State Income Tax Returns in Multiple States. If the FMV Option is exercised and the Beneficial Owners own Units, unless the Exchange Entity files returns on a consolidated basis, the Beneficial Owners will be required to file state tax returns in each of the states in which the Exchange Entity owns properties. In such case, there may be significant costs to the Beneficial Owners.

This Offering Marks the First DST Sponsored by Fortress. While Fortress has sponsored prior programs offered as private and public offerings, including REITs and other types of investment vehicles, the Trust's private offering is the first Delaware statutory trust structure sponsored by Fortress aimed at offering prospective Purchasers the specific tax benefits derived under Code Section 1031. Based on the nature of the Offering (including its structuring and governance and economic terms), it is anticipated that the operating results of the Trust will be significantly

different than those of Fortress's prior programs, and it should not be assumed that Purchasers acquiring Interests will experience returns comparable to those experienced by participants in Fortress's prior programs. For more information, *see "The Sponsor and its Affiliates."*

Tax Risks

General. There are substantial risks associated with the federal income tax aspects of a purchase of an Interest, especially if the purchase is part of an exchange designed to qualify as a Section 1031 Exchange. The following paragraphs summarize some of these tax risks to a Purchaser with respect to the purchase of an Interest. A further discussion of the tax aspects (including other tax risks) of a purchase of an Interest is set forth under "Federal Income Tax Consequences." Because the tax aspects of this Offering are complex and certain of the tax consequences may differ depending on individual tax circumstances, each prospective Purchaser is strongly encouraged to and should consult with and rely on its own tax advisor about this Offering's tax aspects in light of such Purchaser's individual situation. No representation or warranty of any kind is made with respect to the IRS's acceptance of the treatment of any item of income, deduction, gain, loss, credit or any other item by a Purchaser and there can be no assurance that the IRS will not challenge any such treatment.

THIS SECTION WAS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTIONS CONTEMPLATED BY AND DESCRIBED IN THIS MEMORANDUM. EACH PROSPECTIVE PURCHASER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR CONCERNING THE INCOME AND OTHER TAX CONSEQUENCES OF PARTICIPATION IN THIS INVESTMENT.

Acquisition of the Interests May Not Qualify as a Section 1031 Exchange. An Interest may not qualify under Code Section 1031 for tax-deferred exchange treatment, and even if it does, a portion of the proceeds from a Purchaser's sale of its real property to be relinquished (each, a "**Relinquished Property**") could constitute taxable "boot" (as defined herein). Whether any particular acquisition of an Interest will qualify as a tax-deferred exchange under Code Section 1031 depends on the specific facts involved, including, without limitation, the nature and use of the Relinquished Property and the method of its disposition, the use of a qualified intermediary and a qualified exchange escrow and the lapse of time between the sale of the Relinquished Property and the identification and acquisition of the replacement property (each, a "**Replacement Property**"). Neither the Sponsor nor its affiliates, counsel or agents are examining or analyzing any prospective Purchaser's circumstances to determine whether such Purchaser's acquisition of Replacement Property qualifies as a Section 1031 Exchange. Moreover, no opinion or assurance is being provided to the effect that any individual prospective Purchaser's transaction will qualify under Code Section 1031. Such examinations or analyses are the sole responsibility of each prospective Purchaser, who must consult with its own legal, tax, accounting and financial advisors before purchasing an Interest. If the factors surrounding a prospective Purchaser's disposition of the Relinquished Property and its acquisition of the Interests do not meet the requirements of Code Section 1031, the disposition of the Relinquished Property will be taxed as a sale and the IRS will assess interest and possibly penalties for failure to timely pay such taxes. Also, merely designating an Interest in connection with a Purchaser's Section 1031 Exchange does not assure the Purchaser that there will be Interests available to purchase when the Purchaser executes the Purchase Agreement and actually causes its qualified intermediary to transfer funds to complete the purchase of the Interests.

The IRS Could Challenge the Purchase of an Interest Followed by Possible Exercise of the FMV Option Under Step Transaction Principles. The acquisition of an Interest and a subsequent exchange of such Interest pursuant to the FMV Option (if such option were to be exercised) may be challenged by the IRS under "step transaction" principles on the basis that these separate transactions should be treated as a single transaction, whereby a Beneficial Owner should be treated for federal income tax purposes as having simply purchased Units in the exchanging entity and as not ever having held an undivided interest in the Property held directly by the Trust. The receipt of Units in the exchanging entity would not qualify as Replacement Property for a Section 1031 Exchange. In addition, the IRS could also conceivably assert that given the FMV Option, a Beneficial Owner should be treated as purchasing its Interest for resale, rather than to hold for investment purposes, and thereby disqualifying the Interest as potential Replacement Property for a Section 1031 Exchange on that basis as well. The FMV Option would first become exercisable after two years following the final closing of the sale of Interests issued by the Trust pursuant to the Offering. Each prospective Purchaser should seek the advice of a qualified tax advisor as to the applicable tax risks and tax treatment of the FMV Option.

Unitholders may recognize gain upon the sale of Contributed Property. If the FMV Option were to be exercised, there are a variety of transactions that the exchanging entity may, in its sole and absolute discretion,

subsequently undertake with respect to the Property contributed to the exchanging entity pursuant to the FMV Option (such property, "**Contributed Property**"). If the Beneficial Owners were to contribute their Interests to the exchanging entity pursuant to Code Section 721(a) in exchange for Units (the Beneficial Owner in such capacity being the "**Contributing Partner**"), the undivided fractional interest that each Beneficial Owner is deemed to own for federal income tax purposes immediately prior to such contribution would be Contributed Property in the hands of the Contributing Partner. This could cause such Contributing Partner to recognize taxable gain on a subsequent transaction involving such Contributed Property, even though little or no cash may be distributable to the Contributing Partner as a result. Such transactions include, but are not limited to, a future taxable sale of any or all Contributed Property which could result in an allocation of taxable gain only to those Unitholders who are Contributing Partners. It is possible that future economic, market, legal, tax or other considerations may cause the exchanging entity to dispose of any or all Contributed Property in a manner that results in taxable gain to Unitholders who are Contributing Partners that contributed such Contributed Property. Consequently, if the exchanging entity sells any or all Contributed Property after the FMV Option is exercised, and the exchanging entity does not itself participate in a Section 1031 Exchange with respect to such Contributed Property, then the built-in gain attributable to such Contributed Property at the time of its contribution to the exchanging entity by the Contributing Partner, as adjusted (the "**704(c) Gain**"), will be allocated to the Contributing Partner as statutorily prescribed by Code Section 704(c). Beneficial Owners who become Contributing Partners will have no control over whether the exchanging entity disposes of Contributed Property in a manner that results in taxable gain to a Contributing Partner.

Form of Ownership. On July 20, 2004, the IRS issued Revenue Ruling 2004-86, 2004-2 C.B. 191, which held that, assuming the other requirements of Code Section 1031 are satisfied, a taxpayer's exchange of real property for an interest in the DST described in the ruling satisfies the requirements of Code Section 1031. The IRS based its holding on the following conclusions: (i) the DST is treated as an entity separate from its owners (and not as a co-ownership or agency arrangement); (ii) the DST is an "investment" trust and not a "business entity" for federal income tax purposes; (iii) the DST is a "grantor trust" for federal income tax purposes, with the holders of interests in the DST treated as the grantors of the DST; and (iv) the holders of interests in the DST are treated as directly owning interests in real property held by the DST. There are no authorities that directly address the tax treatment of the Trust other than Revenue Ruling 2004-86. It is possible that the IRS could revoke Revenue Ruling 2004-86 or, in the alternative, determine that the Trust does not comply with the requirements of that ruling or the underlying authorities. A determination that the Trust is not taxable as a trust (within the meaning of Treasury Regulations Section 301.7701-4) likely would have a significant adverse impact on the Beneficial Owners. Because the holding of Revenue Ruling 2004-86 is based on certain factual assumptions regarding the DST, not all of which apply to the Trust, and because there are provisions in the Trust Agreement which are not mentioned in the limited facts laid out in the ruling, there can be no guarantee that the Interests will satisfy the requirements of Code Section 1031.

Classification for Purposes of Code Section 1031; No Ruling. We believe the Offering described in this Memorandum is structured in such a manner that the Interests should be treated for federal income tax purposes as direct ownership interests in real property and not as interests in a partnership. If the Interests were to be treated by the IRS or a court as interests in a partnership, then no Purchaser would be able to use its acquisition of Interests as part of a Section 1031 Exchange to defer gain under Code Section 1031. The IRS may challenge the tax treatment related to the Interests as described in this Memorandum.

We have obtained an opinion from Tax Counsel in connection with the Offering that: (i) the Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a); (ii) the Beneficial Owners should be treated as "grantors" of the Trust; (iii) as "grantors," the Beneficial Owners should be treated as owning an undivided fractional interest in the Property for federal income tax purposes; (iv) the Interests should not be treated as securities for purposes of Code Section 1031; (v) the Interests should not be treated as certificates of trust or beneficial interests for purposes of Code Section 1031; (vi) the Master Lease should be treated as a true lease and not a financing for federal income tax purposes; (vii) the Master Lease should be treated as a true lease and not a deemed partnership for federal income tax purposes; (viii) the discussions of the federal income tax consequences contained in this Memorandum are correct in all material respects; and (ix) certain judicially created doctrines should not apply to change the foregoing conclusions. The issues which are the subject of such opinion have not been definitely resolved by statutory, administrative or case law. The opinion is based on the facts and circumstances set forth in the opinion and is not a guarantee of the current status of the law, and, as such, it should not be treated as a guarantee that the IRS or a court would concur with the conclusion in the opinion. If any of such facts or circumstances were to change, the tax consequences to Purchasers described in the opinion and in this Memorandum could change. *See "Federal Income Tax Consequences."*

Identification. Treasury Regulations Section 1.1031(k)-1(c)(4) permits taxpayers to identify alternative and multiple Replacement Properties under Code Section 1031. All properties acquired within 45 days of the sale of the Relinquished Property are deemed to have been properly identified. In addition, taxpayers are permitted to identify three properties without regard to the fair market value of the properties (the so-called "**three property rule**") or multiple properties with a total fair market value not in excess of 200% of the value of the Relinquished Property (the "**200% rule**"). In the event that the IRS successfully challenges the valuation of a Replacement Property under the 200% rule, and as a result the Replacement Properties identified by the taxpayer exceed 200% of the value of the taxpayer's Relinquished Property, the taxpayer's identification may be treated as invalid, which may invalidate the taxpayer's like-kind exchange under Code Section 1031. A taxpayer also may identify any number of properties if it acquires at least 95% of the aggregate fair market value of all identified properties (the "**95% rule**"). The identification rules of Code Section 1031 are strictly construed, and a Purchaser's exchange will not qualify for deferral of gain under Code Section 1031 if too many properties are identified or if the deadlines for identification are not met. Prospective Purchasers will have to rely on the 200% rule or 95% rule with respect to the Offering and should seek the advice of their tax advisors prior to subscribing for the Interests or making any identification for purposes of Code Section 1031.

For purposes of both the 200% rule and the 95% rule, "fair market value" means the fair market value of the property without regard to any liabilities secured by the property. Thus, a taxpayer identifying under the 200% rule for an unencumbered Relinquished Property having a value of $20 million could only identify Replacement Property(ies) having an aggregate gross fair market value (without regard to any liabilities which may encumber the Replacement Property(ies)) of $40 million, in which case the identification of a single Replacement Property having a $30 million equity value but which is secured by a $20 million liability (and, thus, having a $50 million gross value) would violate the 200% rule.

For purposes of the three-property rule, the IRS has not provided direct guidance on what constitutes "one property" for identification purposes. The IRS, however, did offer an interpretation of what constitutes "one property" in the context of multiple parcels of property owned by co-owners leased to a single tenant. Although this interpretation does not specifically apply to the identification rules under Code Section 1031, in Revenue Procedure 2002-22, the IRS provided that it will generally treat contiguous parcels as comprising a single business unit or "property." Further, in Revenue Procedure 2002-22, the IRS provided that even if the parcels are not contiguous, the IRS may treat multiple parcels as comprising a single business unit where there is a close connection between the business use of one parcel and the business use of another parcel.

The identification rules of Code Section 1031 are strictly construed, and a Purchaser's exchange will not qualify for deferral of gain under Code Section 1031 if too many properties or properties having too much value (including by reason of not excluding the effect of the Loan for "fair market value" purposes) are identified, if the properties are not correctly identified, or if the deadlines for identification are not met.

Funds From a Section 1031 Exchange May Not Be Used for Certain Costs Associated with the Property; Possible Adverse Tax Treatment for Closing Costs and Reserves. Each Purchaser of an Interest will be obligated to pay its *pro rata* share of Closing Costs, reserves and other costs of the Offering. A portion of the proceeds of the Offering will be used to pay each Purchaser's *pro rata* share of such costs. In addition, a portion of the proceeds of the Offering may be treated as having been used to purchase an interest in reserves established by the Sponsor rather than for real estate. Under certain conditions, these costs, as well as reserves relating to the Property, may not constitute property that is like-kind to real estate for purposes of Code Section 1031. In particular, a portion of the Offering proceeds will be used to fund the Supplemental Trust Reserve. You may elect to pay these costs with personal funds separate from your Section 1031 Exchange funds. Because the tax treatment of certain expenses of the Offering, closing costs, and reserves is unclear and may vary depending upon the circumstances, no advice or opinion of Tax Counsel will be given regarding the tax treatment of such costs and the treatment of proceeds attributable to the reserves, which may be taxable to those Purchasers who purchase their Interests as part of a Section 1031 Exchange. Therefore, each prospective Purchaser should seek the advice of a qualified tax advisor as to the proper treatment of such items.

Any Amounts Treated as "Boot" Will be Taxable to the Purchasers. If, in a Section 1031 Exchange, money is received or deemed received in addition to the like-kind property (referred to as "boot"), then gain on the Relinquished Property is recognized up to the amount of "boot." Although there is no direct authority on point (other than certain potentially favorable authority that allows taxpayers to treat certain transaction expenses as reducing amounts otherwise taxable as "boot" in a Section 1031 Exchange), prospective Purchasers should be aware that the

IRS may take the position that certain costs paid or deemed paid from money received from the sale of the Relinquished Property are "boot" and, therefore, income to the Purchasers. For example, the IRS may contend that some amounts paid in connection with certain expenses and fees of the Offering, including funding the Supplemental Trust Reserve, constitute boot received by the Purchasers and not a reinvestment in real estate. Thus, if these costs are paid with exchange funds, they have the effect of potentially causing taxable "boot" to the investor. Each prospective Purchaser should seek the advice of a qualified tax advisor as to the proper treatment and impact of such items.

The Use of Certain Exchange Proceeds May Result in Taxable "Boot." Any personal property that may be part of the Property, amounts used to establish reserves and impositions or other items that are not attributable to the purchase of real property will not be treated as an interest in real property and may be treated as "boot." It is possible that such amounts, if sufficient additional funds are borrowed by the Purchasers in excess of the indebtedness of a Purchaser's prior investment, will not be treated as "boot". It is also possible that the Supplemental Trust Reserve and any other reserves funded from Offering proceeds may be treated as cash "boot." In addition, the IRS could take the position that the increase in the purchase price of the Property paid by the Purchasers would not be considered as an interest in real property and may be treated as "boot." In addition, to the extent that the portion of the debt acquired with the purchase of an Interest in the Property is less than the Purchaser's debt on the Relinquished Property, such debt will constitute "boot" and may be taxable depending on the Purchaser's basis in the Relinquished Property. In the event any item is determined to be "boot," the taxpayer will have current income for any such "boot" up to the amount of gain on the exchange of the real property. No opinion is being provided by the Trust, the Manager, the Sponsor or their affiliates or counsel with respect to the amount of "boot" in the transaction. Prospective Purchasers must consult their own independent tax advisor regarding these items.

Potential Significant Tax Costs If Interests Were Deemed To Be Interests in a Partnership. The IRS may assert that the Trust is a partnership for federal income tax purposes due to, among others, the Master Lease. For example, the IRS may assert that the Trust should be treated as being in a deemed partnership for federal income tax purposes because the fluctuating nature of the Rents reflects risk sharing among the parties. If the IRS were to successfully assert that the Trust is a partnership for federal income tax purposes, the Purchasers will be treated for federal income tax purposes as having purchased interests in a partnership, and the Purchasers who purchased their Interests as part of a Section 1031 Exchange would not qualify for deferral of gain under Code Section 1031, and each Purchaser who had relied on deferral of such Purchaser's gain from a disposition of other interests in real property would immediately recognize such gain and be subject to federal income tax thereon. Additionally, since such determination would of necessity come after such Purchaser had purchased its Interest, such Purchaser may have no cash from the disposition of its original interest in real property with which to pay the tax. Given the illiquid and long-term nature of an investment in the Interests, there would be no practical means of generating cash from an investment in the Interests to pay the tax. In such circumstances, a Purchaser will have to use funds from other sources to satisfy this tax liability.

Deferral of Tax Under State Law. Some states adopt Code Section 1031 in whole, other states adopt it in part and still other states impose their own requirements to qualify for deferral of gain under state law. In addition, while many states follow federal tax law by treating the owner of an interest in a fixed investment trust as owning an interest in the assets held by the Trust, other state laws may differ and could result in the imposition of income or other taxes on such entities. Furthermore, certain states also impose "clawback" provisions that may require ongoing reporting requirements and/or recognition of previously-deferred gain in certain circumstances. Therefore, each Purchaser must consult its own tax advisor as to the qualification of a transaction for deferral of gain under state law. *See "Federal Income Tax Consequences."*

State and Local Taxes; State and Local Tax Compliance Obligations. In addition to federal income tax consequences, a prospective Purchaser should consider the state and local tax consequences of an investment in an Interest. Such taxes may include, without limitation, income, franchise, withholding, and excise taxes. Prospective Purchasers must consult with their own tax advisors concerning the applicability and impact of any state and local tax laws, including any potential transfer taxes that may apply in the event that the FMV Option is exercised. Purchasers may be required to file state, local, municipal or other tax returns in the state where the Property is located in connection with the ownership of an Interest, distributions of cash from the Trust, and any potential sale or other disposition of the Property, and the Trust may be required to withhold certain amounts from distributions or sale proceeds and to remit such amounts to federal, state, or local taxing authorities. Such withholding will reduce the amounts ultimately available to Purchasers. Additionally, if the Beneficial Owners acquire Units, the Beneficial Owners may be required to file state, local, or other income tax returns in all of the states or localities where the applicable entity or entities own properties.

Transfer Distribution to the Springing LLC. If a Transfer Distribution occurs, the Property will be transferred from the Trust to the Springing LLC and the membership interests in the Springing LLC will be proportionally distributed to the Beneficial Owners. It is anticipated that the Manager or its affiliate will serve as the manager of the Springing LLC. The Springing LLC will be treated as a partnership for federal income tax purposes. A Transfer Distribution may occur under the circumstances set forth in the Trust Agreement without regard to the tax consequences that arise as a result of the transaction. Under current law, such a transfer should not be subject to federal income tax pursuant to Code Section 721. The transfer could be subject, however, to state or local income, transfer or other taxes. In addition, there can be no assurances that such transfer will not be taxable under the federal income or other tax laws in effect at the time the transfer occurs. Because a Transfer Distribution could occur in several situations, it is not possible to determine all of the tax consequences to the Beneficial Owners in the event of a Transfer Distribution. Prospective Purchasers should consult their own tax advisors regarding the tax consequences of a Transfer Distribution and the effect of the Property being held by the Springing LLC rather than the Trust.

Likely Lack of Deferral of Tax Upon Sale of Springing LLC Membership Interests. Unlike Interests issued by the Trust, membership interests in the Springing LLC will not be treated as direct ownership interests in real property for federal income tax purposes (including for purposes of a Section 1031 Exchange). Thus, if the Trust transfers the Property to the Springing LLC in a Transfer Distribution, it is unlikely that any of the Beneficial Owners who receive membership interests in the Springing LLC will thereafter be able to defer the recognition of gain under Code Section 1031 upon a subsequent disposition of the Property or their membership interests in the Springing LLC.

Delayed Closing; Inability to Close. Prospective Purchasers who are completing a Section 1031 Exchange should be aware that closing on their Replacement Property must occur before "the earlier of (i) the day which is 180 days after the date on which the taxpayer transferred the property relinquished in the exchange, or (ii) the due date (determined with regard to extension) for the transferor's return for the taxable year in which the transfer of the Relinquished Property occurs." No extensions will be granted or other relief afforded by the IRS to taxpayers who do not satisfy this requirement. Therefore, a delayed closing on the acquisition of an Interest could adversely affect the qualification of an exchange under Code Section 1031. Prospective Purchasers are strongly encouraged to "identify" the maximum number of alternative Replacement Properties and not to identify only the Property in this Offering.

Compliance with Revenue Ruling 2004-86. Tax Counsel believes that the powers and authority granted to the Trustees, Manager, Beneficial Owners and the Trust in the Trust Agreement fall within the limited scope of the powers and authority that may be exercised by a trustee of an "investment trust." The Trust Agreement authorizes the Trust to own the Property, receive distributions from the Property, and make distributions thereof, enter into any agreements with qualified intermediaries for purposes of a Beneficial Owner's acquisition of an Interest pursuant to Code Section 1031 and notify the relevant parties of any defaults under the transaction documents. Additionally, the Trust Agreement expressly denies the Manager any power or authority to take actions that would cause the Trust to cease to constitute an investment trust within the meaning of Treasury Regulations Section 301.7701-4(c). Furthermore, the Trust Agreement expressly prohibits the Trustees, Manager, Beneficial Owners and the Trust from exercising any of the enumerated powers that are prohibited under Revenue Ruling 2004-86.

The Trust has been structured with a view to the trust addressed in Revenue Ruling 2004-86. However, distinctions exist between the Trust Agreement and other related arrangements and the trust and other related arrangements described in Revenue Ruling 2004-86. Tax Counsel believes these distinctions are not material. If, however, the IRS or a court were to disagree with the opinion of Tax Counsel, the Interests may be treated for federal income tax purposes as interests in a partnership and not as interests in real property, and Purchasers would not be able to use their acquisition of Interests as part of a Section 1031 Exchange to defer gain under Code Section 1031. For a complete discussion of the Trust in comparison to the arrangement described in Revenue Ruling 2004-86, please see the attached opinion of Tax Counsel.

Status as a True Lease for Federal Income Tax Purposes. Transactions structured as leases may be recharacterized for federal income tax purposes to reflect their economic substance. For example, in appropriate circumstances a purported lease of property may be recharacterized as a sale of the property providing for deferred payments. Such a recharacterization in this context would have significant (and adverse) tax consequences. For example, if the Master Lease were to be recharacterized as a sale of the Property, then a Purchaser would be unable to treat the acquired Interest as qualified Replacement Property in a Section 1031 Exchange in that the Interest would constitute an interest in real property that the Purchaser would not hold for investment. That is, the Purchaser would be treated as having immediately sold the acquired interest in the Property to the Master Tenant with the Master Tenant being treated as purchasing the Property (and all of the interests therein) from the Purchasers in exchange for an

installment note for federal income tax purposes. As a result, Purchasers attempting to participate in Section 1031 Exchanges would not be treated as having received qualified Replacement Property when they acquired their Interest because the Purchaser would be treated as having made a loan to the Master Tenant. As the owner of the Property for federal income tax purposes, the Master Tenant would be entitled to claim any depreciation deductions. To the extent that payments of "rent" were recharacterized as payments of interest and principal, the payment of principal would not be treated as the receipt of taxable income by the Purchasers and would not be deductible by the Master Tenant, as applicable. All of these consequences could have a significant impact on the tax consequences of an investment in an Interest.

Revenue Procedure 2001-28, 2001-1 C.B. 1156 sets forth advance ruling guidelines for "true lease" status. We have not sought, and do not expect to request, a ruling from the IRS under Revenue Procedure 2001-28. These ruling guidelines provide certain criteria that the IRS will require to be satisfied in order to issue a private letter ruling that a lease is a "true lease" for federal income tax purposes. In the event of an examination by the IRS, the IRS and, ultimately, the courts of applicable jurisdiction, would consider these ruling guidelines, together with existing cases and rulings, for purposes of determining whether a lease qualifies as a true lease for federal income tax purposes. However, Tax Counsel does not believe that strict compliance with Revenue Procedure 2001-28 is required to conclude that the Master Lease should be characterized as a true lease for federal income tax purposes. Rather, Tax Counsel believes that satisfying most of the material ruling guidelines should be sufficient for purposes of determining the characterization of the Master Lease for federal income tax purposes. We will receive an opinion of Tax Counsel that Tax Counsel believes the Master Lease satisfies most of the pertinent material conditions set forth in Revenue Procedure 2001-28 and that the Master Lease should be treated as a true lease rather than as a financing for federal income tax purposes and, therefore, the Purchasers (via their Interests issued by the Trust) should be treated as the true owners of the Property for federal income tax purposes. Similarly, if the Master Tenant were treated as a mere agent of the Trust rather than as a lessee, the power of the Master Tenant to make improvements to the Property and to re-lease the Property could be attributed to the Trust, and the Trust could be deemed to have powers prohibited under Revenue Ruling 2004-86. We have considered the issue and, after having consulted with Tax Counsel, have concluded that the Master Tenant should not be treated as an agent of the Trust. However, there is no assurance that the IRS would agree with these positions.

Qualification under Code Section 1033. Code Section 1033 allows nonrecognition of gain (but not loss) if: (1) the gain is realized on an involuntary conversion of property as a result of its destruction, theft, seizure, or condemnation, and (2) within a prescribed period of time, the property is replaced with other property that is "similar or related in service or use" ("**Similar Use Property**"). If the condemned property is converted directly into Similar Use Property, nonrecognition of gain is mandatory. If the condemned property is converted into money or non-Similar Use Property, nonrecognition of gain is elective if the taxpayer replaces the money or non-Similar Use Property with Similar Use Property within a prescribed period of time. Broadly speaking, there are four types of replacement property that qualify for nonrecognition of gain under Code Section 1033: (1) Similar Use Property, (2) stock of a controlled corporation owning primarily Similar Use Property, (3) real property that is "like-kind," and (4) certain farm property. Specifically, for condemned real property which is held for productive use in a trade or business or for investment, Code Section 1033(g)(1) provides that "like-kind" real property will be treated as Similar Use Property. The replaced like-kind real property must also be held for productive use in a trade or business or for investment. Thus, similar to a Section 1031 Exchange, Code Section 1033 allows a taxpayer to reinvest proceeds from a forced conversion into a like-kind exchange of real property in a tax-deferred manner.

Although similar, the rules and timelines relating to an exchange under Code Section 1033 are different than those under Code Section 1031. For example, Treasury Regulations Section 1.1033(a)-2(c)(2) requires taxpayers to provide "all … details in connection with an involuntary conversion of property at a gain" on the return for the years in which any portion of the gain is realized. A failure to include gain in the tax return is deemed as a Code Section 1033 election. Further, the replacement may begin on the earlier of the conversion or the threat or imminence of condemnation. As for the deadline, Code Section 1033(a)(2)(B)(i) provides that the replacement period ends two years after the close of the first taxable year in which conversion gain is realized. For like-kind replacement properties under Code Section 1033(g), an extended three-year replacement period applies. Prospective Purchasers should consult with their own tax advisor regarding the application of Code Section 1033 to its own particular circumstances, including compliance and reporting obligations.

Tax Penalties. The Tax Opinion was written to support the promotion or marketing of this transaction, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor. Any discussion of the tax consequences of an investment in the Trust is not intended or written by the Sponsor or its

counsel to be used, and cannot be used, by any person for the purpose of avoiding tax penalties that may be imposed under the Code.

Limitations on Losses and Credits From Passive Activities. Losses from passive trade or business activities generally may not be used to offset "portfolio income," such as interest, dividends and royalties, or salary or other active business income. Deductions from such passive activities generally may only be used to offset passive income. Interest deductions attributable to passive activities are treated as passive activity losses, and not as investment interest. Thus, such interest deductions are subject to limitation under the passive activity loss rule and not under the investment interest limitation rule. Credits from passive activities generally are limited to the tax attributable to the income from passive activities. Passive activities generally include trade or business activities in which the taxpayer does not materially participate and any rental activity. The Purchaser's income and loss from the Trust will constitute income and loss from passive activities. Among other exceptions, a taxpayer may deduct passive losses from rental real estate activities against other income if: (i) more than half of the personal services performed by the taxpayer in trades or businesses are performed in a real estate trade or business in which the taxpayer materially participates and (ii) the taxpayer performs more than 750 hours of service during the tax year in real property trades or businesses in which the taxpayer materially participates. *See "Federal Income Tax Consequences - Other Tax Consequences - Limitations on Losses and Credits from Passive Activities."*

Limitation on Excess Business Losses. Under current law, excess business losses of a taxpayer other than a corporation are not allowed for any taxable year. This limitation currently applies for taxable years beginning after December 31, 2020, and before January 1, 2029. Such losses are carried forward and treated as part of the taxpayer's net operating loss carryforward in subsequent taxable years. An excess business loss for the taxable year is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount. The threshold amount, which is indexed for inflation, was $313,000 for 2025 and $256,000 for 2026 (or twice the applicable threshold amount in the case of a joint return). The provision applies after the application of the passive loss rules, and applies at the partner or shareholder level in the case of a partnership or S corporation.

A Purchaser may be required to make an election if the Purchaser wishes to avoid the limit on business interest deductions. Interest deductions for taxpayers with average annual gross receipts in excess of $31 million for taxable years beginning in 2025 and $32 million for taxable years beginning in 2026 (and subject to an annual inflation adjustment) are generally deferred to the extent that annual business interest expense exceeds business interest income plus 30% of adjusted taxable income, subject to certain adjustments. The adjusted taxable income of a taxpayer means taxable income computed without regard to any item not properly allocable to a trade or business, any business interest income or expense, any net operating loss deduction, any deduction allowable for depreciation, amortization, or depletion, and certain other items ("**ATI**"). Although taxpayers were not allowed to take into consideration adjustments for depreciation and amortization for purposes of calculating ATI in certain previous years, these items are now included in the calculation of a taxpayer's ATI under current law and will remain so unless and until amended by subsequent law. *See "Federal Income Tax Consequences – Limit on Business Interest Deductions."*

A real estate trade or business, however, may elect out of the deferral regime, in which case the business must depreciate certain types of real property by the straight-line method over slightly longer recovery periods under the alternative depreciation system (the "**ADS**") (i.e., 40 years for nonresidential property, 30 years for residential rental property, and 20 years for qualified interior improvements). While Purchasers may be eligible to make this election, there is considerable uncertainty as to the application of the new rules, which may depend in part upon a Purchaser's specific circumstances.

Prospective Purchasers should consult their own tax advisors as to the applicability of the new rules to them with respect to their particular circumstances and as to their ability to make such election. *See "Federal Income Tax Consequences - Limit on Business Interest Deductions."*

Foreclosure / Cancellation of Debt Income. In the event of a foreclosure of a mortgage or deed of trust on the Property, a Purchaser would realize gain, if any, in an amount equal to the excess of the Purchaser's share of the outstanding mortgage over its adjusted tax basis in the Property, even though the Purchaser might realize an economic loss upon such a foreclosure. In addition, the Purchaser could be required to pay income taxes with respect to such gain even though the Purchaser may receive no cash distributions as a result of such foreclosure.

If Property debt were to be cancelled without an accompanying foreclosure of the Property, then a Purchaser could have to recognize cancellation of debt income (subject to the applicability of one or more of the cancellation of

debt exclusions, in which event such exclusion(s) might constitute only a "deferral" of such income effectuated by the Purchaser's reduction of tax attributes – including tax basis), which would be taxed as ordinary income, for federal income tax purposes. Also, the Purchaser would not be able to offset any such cancellation of debt income with any loss recognized by a Purchaser that would constitute a capital loss for federal income tax purposes (including any loss recognized by a Purchaser from the sale of its Interest in the likely event that the Interest could not be considered Section 1231 Real Property (as defined herein)).

Limitation on Losses Under the At-Risk Rules. A Purchaser that is an individual or closely held corporation will be unable to deduct losses from the Trust, if any, to the extent such losses exceed the amount with respect to which such Purchaser is considered "at risk." Losses not allowed under the at-risk provisions may be carried forward to subsequent taxable years and used when the amount at risk increases. The rules regarding the applicability of the at-risk rules to a particular Purchaser are complex and vary with the facts and circumstances particular to each Purchaser. Prospective Purchasers should consult their tax advisors with respect to the tax consequences to them of the rules described herein. *See "Federal Income Tax Consequences."*

No Decision Rights Regarding Sale Requirements for the Property. The Purchasers will not have any vote or decision-making authority with respect to the sale of the Property. If the Manager determines, in its sole and absolute discretion, that the sale of the Property is reasonable, then the Trust may sell the Property. This sale will occur without regard to the tax position, preferences or desires of any of the Purchasers, and the Purchasers will have no right to approve (or disapprove) of the sale of the Property. A Purchaser may or may not be able to defer the recognition of gain for federal, state or local income tax purposes when this sale occurs. Additionally, pursuant to the FMV Option, the Option Holder may offer Beneficial Owners the opportunity to sell their Interests for cash or exchange their Interests for Units after all Beneficial Owners have held their Interests for at least two years.

Tax Liability in Excess of Cash Distributions; Purchasers Tax Liquidity. It is possible that a Purchaser's tax liability resulting from its Interest will exceed its share of cash distributions from the Trust. This may occur because cash flow from the Property may be used to fund non-deductible operating or capital expenses of the Property. Thus, there may be years in which a Purchaser's tax liability exceeds its share of cash distributions from the Trust. The same tax consequences may result from a sale or transfer of an Interest, whether voluntary or involuntary, that gives rise to ordinary income or capital gain. If any of these circumstances occur, a Purchaser would have to use funds from other sources to satisfy its tax liability. *See "Federal Income Tax Consequences – Other Tax Consequences."* In addition, a sale or exchange of the Property at an economic loss without a Section 1031 Exchange could result in ordinary income, depreciation recapture or capital gain to a Purchaser without any accompanying net cash proceeds from the sale or disposition of the Property to pay income taxes on such items. This is a particular risk for certain Purchasers, such as persons acquiring an Interest in a Section 1031 Exchange, whose income tax basis in an Interest may be substantially lower than its cash investment in the Property. If this were to occur, a Purchaser would have to use funds from other sources to satisfy its tax liability.

Risk of Audit. An audit of the tax returns of a Beneficial Owner by the IRS or any other taxing authority could result in a challenge to, and disallowance of, some of the deductions claimed on such returns. An audit also could challenge the qualification of a Section 1031 Exchange. No assurance or warranty of any kind can be made with respect to the deductibility of any items, or of the qualification of a Section 1031 Exchange, in the event of either an audit or any litigation resulting from an audit. An audit of a Purchaser's tax returns could arise as a result of an examination by the IRS or any state or local taxing authority or any other taxing authority of tax returns filed by the Sponsor or its affiliates, or a Beneficial Owner or any information returns filed by the Trust.

Changes in Federal Income Tax Law. The discussion of tax aspects contained in this Memorandum is based on law presently in effect and certain proposed Treasury Regulations. Nonetheless, prospective Purchasers should be aware that new administrative, legislative or judicial action could significantly change the tax aspects of an investment in an Interest. In particular, on July 4, 2025, Public Law 119-21 (commonly known as the "One Big Beautiful Bill Act" or "**OBBBA**") was signed into law. The OBBBA made many significant changes to current federal income tax laws. Certain provisions are immediately effective, while certain provisions will be prospectively effective. To date, only limited guidance exists with respect to these new provisions, and there are numerous interpretive issues that will require guidance. Technical corrections legislation and/or administrative guidance may also be needed to clarify certain aspects of the OBBBA and give proper effect to Congressional intent. There can be no assurance, however, that technical clarifications or changes needed to prevent unintended or unforeseen tax consequences will be enacted by Congress in the near future. Furthermore, any such technical clarifications or changes may or may not

be retroactive with respect to transactions entered into or contemplated before the effective date of such technical clarification or change, and could have a material adverse effect on an investment in an Interest.

Prospective Purchasers should note that a number of issues discussed in this Memorandum have not been definitively resolved by statutes, regulations, rulings or judicial opinions. Accordingly, no assurances can be given that the conclusions expressed herein will be accepted by the IRS, or, if contested, would be sustained by a court, or that legislative changes or administrative pronouncements or court decisions may not be forthcoming that would significantly alter or modify the conclusions expressed herein, with possibly retroactive effect. Each Purchaser must consult its own tax counsel about the tax consequences of an investment in an Interest. The opinion and discussion are written to support the promotion or marketing of a particular transaction, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor.

Reportable Transaction Disclosure and List Maintenance. A taxpayer's ability to claim privilege on any communication with a federally authorized tax preparer involving a tax shelter is limited. In addition, taxpayers and material advisors must comply with disclosure and list maintenance requirements for reportable transactions. Reportable transactions include transactions that generate losses under Code Section 165 and may include certain large like-kind exchanges entered into by corporations. The Sponsor and Tax Counsel have concluded that the sale of an Interest should not constitute a reportable transaction. Accordingly, the Trust and Tax Counsel do not intend to make any filings pursuant to these disclosure or list maintenance requirements. There can be no assurances that the IRS will agree with this determination by the Trust and Tax Counsel. Significant penalties could apply if a party fails to comply with these rules, and such rules are ultimately determined to be applicable.

Accuracy-Related Penalties and Interest. In the event of an audit that disallows a Purchaser's deductions or disqualifies a Purchaser's Section 1031 Exchange, Purchasers should be aware that the IRS could assess significant penalties and interest on tax deficiencies. The Code provides for penalties relating to the accuracy of tax returns equal to 20% of the portion of the tax underpayment to which the penalty applies. The penalty applies to any portion of any understatement that is attributable to (i) negligence or disregard of rules or regulations, (ii) any substantial understatement of income tax, or (iii) any substantial valuation misstatement. A substantial valuation misstatement occurs if the value of any property or the adjusted basis of such property is 150% or more of the amount determined to be the proper valuation or adjusted basis. The penalty is increased to 40% in the case of an understatement that is attributable to one or more "nondisclosed economic substance" transactions or to a Gross Valuation Misstatement (as defined herein). In addition to these provisions, a 20% accuracy-related penalty is imposed on (i) listed or (ii) reportable transactions having a significant tax avoidance purpose. This penalty is increased to 30% if the transaction is not properly disclosed on the taxpayer's federal income tax return. Failure to disclose such a transaction can also prevent the applicable statute of limitations from running in certain circumstances and can subject the taxpayer to additional disclosure penalties ranging from $10,000 to $200,000, depending on the facts of the transaction. Any interest attributable to unpaid taxes associated with a non-disclosed reportable transaction may not be deductible for federal income tax purposes. *See "Federal Income Tax Consequences – Other Tax Consequences – Accuracy-Related Penalties and Penalties for the Failure to Disclose."*

Alternative Minimum Tax. The alternative minimum tax applies to designated items of tax preference. The limitations on the deduction of passive losses also apply for purposes of computing alternative minimum taxable income. Prospective Purchasers should consult with their own tax advisors concerning the applicability of the alternative minimum tax.

The Medicare Tax. Income and gain from passive activities may be subject to the "Medicare Tax." Certain Purchasers who are U.S. individuals are subject to the Medicare Tax, an additional 3.8% tax on their "net investment income" and certain estates and trusts are subject to an additional 3.8% tax on their undistributed "net investment income." Among other items, "net investment income" generally includes passive investment income, such as rent and net gain from the disposition of investment property, *less* certain deductions. Prospective Purchasers should consult their tax advisors with respect to the tax consequences to them of the rules described above.

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ESTIMATED USE OF PROCEEDS

This table addresses the estimated use of proceeds from this Offering toward the costs, fees and expenses that have been incurred or may be incurred in connection with this Offering, including the selection and acquisition of the Property and procurement of the related financing. The Trust is offering a maximum of $40,178,939 of Interests, which, if sold in full, will represent 100% of the outstanding beneficial ownership interests issued by the Trust if the Maximum Offering Amount is sold. Proceeds raised from Purchasers in this Offering will be used to redeem the Class 2 Beneficial Interests held by the Depositor in order to reimburse it for the costs, fees and expenses it has incurred as described below. *See "Summary of the Offering – The Trust."* This table does not address the allocation for federal income tax purposes of the amount paid by a Purchaser for its Interest. Potential Purchasers should discuss with their own tax advisors the tax treatment of the purchase of an Interest.

The following table sets forth the estimated use of proceeds from the Offering:

	Total Proceeds	**From Loan Proceeds**	**From Offering Proceeds**	**Percentage of Maximum Offering Amount**
Sources				
Offering Proceeds (1)	$40,178,939		$40,178,939	100%
Loan Proceeds	$35,805,000	$35,805,000		
Total Sources	**$**75,983,939	**$**35,805,000	**$**40,178,939	**-**
Application				
Sales Commissions and Fees				
Organization and Offering Expenses (2)	$200,895		$200,895	0.50%
Sales Commissions (3)	$2,410,736		$2,410,736	6.00%
Managing Broker-Dealer Fee (4)	$803,579		$803,579	2.00%
Marketing and Due Diligence Expense (5)	$401,789		$401,789	1.00%
Wholesaling Fee (6)	$401,789		$401,789	1.00%
Total (7)	**$4,218,789**		**$4,218,789**	**10.50%**
Costs of Acquisition				
Real Estate Acquisition Cost	$65,100,000	$31,418,350	$33,681,650	83.83%
Acquisition Fee (8)	$976,500		$976,500	2.43%
Financing Fee (9)	$0		$0	0%
Supplemental Trust Reserve (10)	$300,000	$300,000		0%
Replacement Reserve (10)	$1,862,684	$1,862,684		0%
Immediate Repair Reserve (10)	$0	$0		0%
Tax Reserve (10)	$41,072	$41,072		0%
Deductible Gap Reserve (10)	$50,000	$50,000		0%
Radon Reserve (10)	$50,150	$50,150		0%
DST Working Capital Reserve (10)	$832,800	$832,800		0%
Closing Costs (11)	$2,551,944	$1,249,944	$1,302,000	3.24%
Total	**$71,765,150**	**$35,805,000**	**$35,960,150**	**89.50%**
Total Application	**$75,983,939**	**$35,805,000**	**$40,178,939**	**100%**

(1) The total Offering proceeds amount included herein assumes that all subscribers to the Offering are charged a full 6% Sales Commission. Purchasers of Interests who are not charged such full Sales Commission amount (e.g., Purchasers who are not introduced to the Offering through a broker-dealer) will not incur such charge in connection with their purchase of Interests and, accordingly, the total Offering proceeds figure will be lower to reflect the extent to which Purchasers of Interests are not charged full or any Sales Commissions at their respective Closings.

(2) The Manager will be entitled to reimbursement for expenses incurred in connection with the Offering, on a non-accountable basis, in an amount up to 0.5% of the Maximum Offering Amount, including, but not limited to, the costs of organizing the Trust and other entities, estimated marketing, legal, finance, accounting, and printing fees and expenses incurred in connection with this Offering. *See "Compensation and Fees."*

(3) The Managing Broker-Dealer and the Selling Group Members will make offers and sales of Interests on a "best efforts" basis. Orchard Securities, LLC as the Managing Broker-Dealer will receive Sales Commissions of up to 6% of the Offering proceeds, which it will re-allow to the Participating Broker-Dealers.

(4) The Managing Broker-Dealer will receive a Managing Broker-Dealer Fee of up to 2% of the Offering proceeds.

(5) The Managing Broker-Dealer will receive Marketing and Due Diligence Expense Allowances of up to 1% of the Offering proceeds for non-accountable due diligence and marketing expenses, which the Managing Broker-Dealer may re-allow in whole or in part to the Participating Broker-Dealers.

(6) The Managing Broker-Dealer will receive a Wholesaling Fee a fee of up to 1% of the Offering proceeds for wholesaling services.

(7) The aggregate of Organization and Offering Expenses, Sales Commissions, Managing Broker-Dealer Fee, Marketing and Due Diligence Expense Allowances, and Wholesaling Fee. The Trust may, in its sole and absolute discretion, accept purchases of Interests net of all or a portion of such amounts. *See "Plan of Distribution."*

(8) The Trust incurred the obligation to pay the Manager an Acquisition Fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property in exchange for the Manager's and its management team's services in the structuring and negotiation of the acquisition of the Property.

(9) The Manager earned a Financing Fee up to 0% of the gross proceeds of the Loan for its and its management team's services in negotiating the financing of the Property.

(10) As required under the Loan Documents, the Trust established and funded $1,862,684 into the Replacement Reserve and $0 into the Immediate Repair Reserve at the Acquisition. In addition, at the Acquisition, the Lender required initial contributions in escrow of $41,072 into the Tax Reserve, $50,000 into the Deductible Gap Reserve, and $50,150 into the Radon Reserve, all of which were funded from Loan proceeds. In addition to the Replacement Reserve and the Immediate Repair Reserve, the Trust established and directs the Supplemental Trust Reserve, which was funded from Loan proceeds in the aggregate amount of $300,000. Finally, pursuant to the authority granted under the Trust Agreement, the Trust established (and controls) the DST Working Capital Reserve in the amount of $832,800.

(11) DBSO (pursuant to the Depositor Loan) is entitled to reimbursement for closing costs, including costs in connection with financing, due diligence, acquisition, transfer taxes, title charges, escrow fees, document preparation fees, legal fees (other than Lender legal fees), third party costs, recording fees, entity formation costs, costs of carry, and other related costs. *See "Compensation and Fees."*

For a description of the fees the Sponsor and its affiliates will receive in connection with the Offering, *see "Compensation and Fees."*

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COMPENSATION AND FEES

The Sponsor, the Managing Broker-Dealer, the Manager, the Master Tenant, the Property Manager and their respective affiliates will earn fees and receive reimbursements of expenses incurred (1) in connection with the sourcing, due diligence and completion of the Acquisition of the Property, (2) with respect to the Offering and sale of Interests, and (3) concerning the management, financing, leasing, operation and sale of the Property. The following table sets forth estimates of such compensation, fees, reimbursements and other compensation. Actual amounts may vary depending upon the timing and amount of Interests sold, the performance of the Property and the timing of and proceeds from any sale of the Property.

Type of Compensation or Reimbursement	Method of Computation
Offering	
Organization and Offering Expenses	The Manager will be entitled to reimbursement for Organization and Offering Expenses, on a non-accountable basis, in an amount up to 0.5% of the Maximum Offering Amount.
Sales Commissions	The Managing Broker-Dealer will receive Sales Commissions of up to 6% of the purchase price of each Class 1 Beneficial Interest, which the Managing Broker-Dealer will re-allow to the applicable Participating Broker-Dealer(s).
Marketing and Due Diligence Expense Allowances	The Managing Broker-Dealer will receive Marketing and Due Diligence Expense Allowances of up to 1% of the Total Sales for non-accountable due diligence and marketing expenses. The Marketing and Due Diligence Expense Allowances may be re-allowed in whole or in part to Participating Broker-Dealers.
Managing Broker-Dealer Fee	The Managing Broker-Dealer will receive a Managing Broker-Dealer Fee of up to 2% of the Total Sales.
Wholesaling Fee	The Managing Broker-Dealer will receive a Wholesaling Fee of up to 1% of the purchase price of each Class 1 Beneficial Interest.
Acquisition Fee	The Manager will receive an Acquisition Fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property for the Manager's services in the structuring and negotiation of the acquisition of the Property.
Financing Fee	The Manager will receive a Financing Fee in an amount up to 0% of the gross proceeds of the Loan evidenced by the Loan Documents for its and its management team's services in negotiating the financing of the Property.
Redemption of Class 2 Beneficial Interests held by the Depositor	The Trust will redeem all of the Class 2 Beneficial Interests held by the Depositor as provided in the Trust Agreement. In addition to the items noted above, the Trust is responsible for funding the Supplemental Trust Reserve and reimbursing the Depositor for amounts paid by it with respect to the Lender escrows and Replacement Reserves.
Closing Costs	DBSO (pursuant to the Depositor Loan) is entitled to reimbursement for its and the Sponsor's legal and closing costs, including costs in connection with financing, due diligence, acquisition, transfer taxes, title charges, escrow fees, document preparation fees, legal fees (other than Lender legal fees), third party costs, recording fees, entity formation costs, costs of carry, and other related costs, estimated at $2,551,944 (together, the "**Closing Costs**").

Operations

Distributions	The Depositor will receive a share of distributions from the Trust proportionate to its Class 2 Beneficial Interests (i.e., the unsold Class 1 Beneficial Interests).
Master Lease Operating Profit	The Master Tenant will retain net operating revenues from the Property that exceed the total rent payable to the Trust under the Master Lease.
Asset Management Fee	The Trust will be obligated pursuant to a separate Asset Management Agreement to pay the Manager an annual Asset Management Fee for supervising the services of the Property Manager. The Trust will pay the Manager an annual Asset Management Fee in an amount up to 1% of the Trust's effective gross revenue (an "**Asset Management Fee**"). The Manager may waive or defer the Asset Management Fee charged to Beneficial Owners, in whole or in part, in the Manager's sole and absolute discretion. The Asset Management Fee will be paid on a *pro rata* basis, monthly in arrears, and if the Asset Management Agreement terminates during any calendar year, will be prorated for any such partial year. The Asset Management Fee will be paid to the Manager, which is an affiliated entity. The Asset Management Fee is subordinate in all respects in lien and payment to the lien and payment of the Loan.
Property Management Fee	The Property Manager will receive a monthly Property Management Fee in an amount equal to the greater of $10,000 or 3% of the Effective Gross Revenues from the Property. Additionally, the Master Tenant may, in its discretion, elect to award the Property Manager with a performance-based incentive fee based on revenue-based or other gross operational metrics in such amount(s) as the Master Tenant may determine. All payments to the Property Manager will be paid solely by the Master Tenant.
Construction Management Fee	Concurrently with the Acquisition, the Master Tenant entered into the Construction Management Agreement with DST Holdings. The Construction Management Fee payable under the Construction Management Agreement will be an amount equal to the greater of (i) 5%, and (ii) such other market-accepted percentage for parties engaging on arm's-length terms, of the construction costs determined on a project-by-project basis with respect to the construction management activities being performed thereunder. All payments to DST Holdings will be paid solely by the Master Tenant.

Liquidation

Disposition Fee* **Disposition Fee does not apply if the FMV Option is exercised.*	In the event the Trust sells the Property to any third party, the Manager will receive a disposition fee from the Trust in an amount up to 2.5% of the gross proceeds of such sale (the "**Disposition Fee**"); *provided*, *however*, that the Managing Broker-Dealer will be entitled to receive 7.5% of the value of the Disposition Fee received by the Manager; *provided*, *further*, that no Disposition Fee will be charged in connection with any transaction for which the Manager or its affiliates receive a Cash Redemption Fee (as defined below); *provided*, *finally*, that no amounts constituting a Disposition Fee will be charged unless and until, at the time of the contemplated disposition, the Beneficial Owners of the Trust have received a 1.0x multiple on invested capital (including cashflow) in connection with their participation in the Trust.

FMV Option Exercised

Cash Redemption Fee ***Cash Redemption Fee does not apply if the Disposition Fee is charged.*	In the event the FMV Option is exercised, each Electing Beneficial Owner will receive a cash amount (the "**Cash Amount**") equal to their respective Cash Value, *less* a 2.5% cash redemption fee (the "**Cash Redemption Fee**"), which Cash Redemption Fee will be remitted to the Manager, *provided*, *however*, that the Managing Broker-Dealer will be entitled to receive 7.5% of the value of the

Cash Redemption Fee received by the Manager; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust.

Except with respect to Sales Commissions, Marketing and Due Diligence Expense Allowances, the Managing Broker-Dealer Fees, and the Wholesaling Fee, to the extent that the actual expenses are below the amounts projected or estimated for any particular line item, any such savings may be retained by the Sponsor. If, however, the actual expenses exceed the amounts projected or estimated, then any such shortfall may be funded by the Sponsor.

The Sponsor, the Master Tenant, the Manager, the Delaware Trustee, the Property Manager and their respective affiliates will receive additional compensation for any additional services performed on behalf of the Trust or Beneficial Owners so long as such services are provided on terms and conditions no less favorable to the Trust and Beneficial Owners than could be obtained from independent third parties for comparable services in the same location.

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THE PROPERTY

Overview of the Property

Discussion in this section is derived from the PCR that Partner prepared in connection with the Property. A copy of the PCR has been included in the Digital Investor Kit.

The Property is a residential student housing facility comprising 14 apartment buildings, one clubhouse, and two maintenance buildings located at 5000 Domain Drive, Morgantown, West Virginia 26501. While not a provider of university-sanctioned housing, the Property is located approximately one mile from the WVU campus. Originally constructed in 2012, the Property is situated on approximately 93.61 acres and contains approximately 365,252 square feet of net leasable floor area.

General Specifications

Name	"Domain at Town Centre"
Address	5000 Domain Drive Morgantown, West Virginia 26501
Year Built	2012
Site Area	Approximately 93.61 acres
Rentable Building Area	Rentable building area of the Property consists of 14 apartment buildings that contain 336 total dwelling units. The dwelling units provide a total net leasable floor area of approximately 365,252 square feet.
Dwelling Units	The Property contains a total of 336 Dwelling Units, comprising 48 one-bedroom Dwelling Units, 120 two-bedroom Dwelling Units, 48 three-bedroom Dwelling Units and 120 four-bedroom Dwelling Units. As of March 2026, the Dwelling Units were approximately 93% leased to the Residents. As of March 12, 2026, the Property was nearly 73% pre-leased for the 2026/2027 Academic Year.
Parking	The Property has a total of 976 parking spaces, including 17 designated handicap spaces.
Property Amenities	Property amenities include: • Community clubhouse with small kitchen, business center, fitness center, and game room • In-ground, outdoor swimming pool • Freestanding carports • Sand volleyball court • Basketball court • Barbecue grill area and fire pit • Dog park
Individual Unit Amenities	Unit features include: • Granite countertops • Side-by-side washers and dryers • Stainless steel sinks • Lavatory vanities • Bathtubs with integral shower arrangements

Construction Specifications

Exterior	The exterior walls of the Buildings consist primarily of fiber cement board siding. The exterior walls, exterior paint, and exterior wall sealants all appeared to be in good condition. The Buildings are equipped with double-pane, operable windows, which appeared to be in good condition, with no

	signs of window leaks or condensation. Window sealants appeared to be intact, with no signs of deterioration. The doors were in good condition.
Interior	Interior walls are typically painted gypsum board. Ceilings are generally finished with painted gypsum boards. Entrance doors to the units were typically metal with wood frames.
Foundation	Foundation system consists of a conventional concrete spread footing system with a reinforced-concrete slab-on-grade over continuous footings at the perimeter and isolated pad footings at interior bearing locations. The foundations appeared to be in good condition.
Roof	Roof coverings consist of architectural-grade, asphalt-composition shingles over pitched roof construction at the residential and leasing office/clubhouse Buildings. Roof coverings consist of pitched standing seam metal panels at the maintenance Buildings. Roofings systems appeared to be in good to fair condition.
Building Frame	The Buildings are constructed of wood framing. Upper floors consist of wood-framing with wood decking and lightweight concrete topping. The roof structure is constructed of pitched wood framing topped with Oriented Strand Board ("**OSB**") sheathing.
HVAC	Heating and cooling are provided by direct expansion HVAC split systems. Each system has a fan coil unit and a heat pump. Fan coil units are typically located in an interior mechanical closet. Manufactured by Goodman, the heat pumps are located at grade, have a typical input capacity of 1.5- to 2.5-tons and utilize R-410A refrigerant. Distribution of the conditioned air is by concealed sheet metal ductwork. Temperature is controlled by local thermostats within each Dwelling Unit. Accessory areas are heated by wall-mounted unit heaters and electric baseboard heaters. Ventilation is provided by bathroom fans. Ventilation is ducted to the exterior.
Water Heater	Domestic hot water is supplied to the Dwelling Units by individual unit electric water heaters. Observed water heaters were manufactured by State Industries and had a typical rated capacity of 50-gallons
Electrical System	The electrical system is provided via several pad-mounted transformers located in the landscaped areas. Each Building is configured with individual electrical service. Main electrical service is rated at 800 to 1,000 amp-amp, 120/240-volt power. Breaker panels for lighting and power controls are located in each Dwelling Unit. Dwelling Units are individually metered, and each Dwelling unit is provided with 100 to 100-amp service. Ground fault circuit interrupter ("**GFCI**") outlets were observed in wet areas.
Countertops	The Dwelling Unit kitchens are equipped with granite countertops.
Cabinets	The Dwelling Unit kitchens have wood cabinets.
Flooring	Floors of the Dwelling Units are typically finished with carpet and vinyl plank.
Appliances	Each kitchen is equipped with a stainless steel sink, garbage disposal, electric range refrigerator, dishwasher, and built-in microwave.
Appraisal	In connection with the Acquisition, the Lender obtained the Appraisal for the Property prepared by CBRE, Inc., dated February 13, 2026, reflecting a market value, "As Is," for the Property of $65,200,000.
Property Condition Report	Partner issued the PCR dated January 21, 2026. The PCR concluded generally that the Property is in overall good condition.

At your request, the Sponsor will provide you with a copy of the PCR.

Wind Zone

According to the Federal Emergency Management Agency's Wind Zone Map, the Property appears to be located in Wind Zone III, which has design wind speeds of up to 200 miles per hour. The Property does not appear to be located in a special wind region or hurricane-susceptible zone.

Flood Zone

According to Flood Insurance Rate Map, Community Panel Number 54061C0113F, dated April 5, 2019, the Property appears to be located in Zone X (unshaded); defined as minimal risk areas outside the 1-percent and 0.2-percent-annual-chance floodplains.

Environmental Site Assessment

The Property has been evaluated for environmental hazards pursuant to the Phase I Report prepared by Partner, dated January 12, 2026. The Phase I Report, which consisted of a walk-through observation of the accessible areas and interviews with facility personnel and local agency representatives, limited observations of surrounding properties, and a records review including regulatory databases and historical use information, was performed in compliance with the standards of ASTM Practice E 1527-21.

The first BER identified in the Phase I Report consisted of former onsite mining activities and a restricted mine permit area within which the Southwest portion of the Property is situated. Four surface and underground miners were identified as previously located on and around the Property, all currently closed. The southwest portion of the property is depicted within a restricted mine permit area with covenants, conditions, restrictions and reservation of easements contained in Deed by and between Consolidation Coal Company, a Delaware corporation, and Mon-View, LLC, a West Virginia limited liability company, dated June 5, 2003. The restricted mine permit area is for mining rights and includes an easement for access and subterranean passageways. No coal processing equipment was apparent onsite in the historical aerial photographs that Partner reviewed. Partner submitted a request for records to WVDEP and a response is pending. None of the records that Partner reviewed online and on the regulatory database report specify violations or incidents that would potentially represent a recognized environmental condition; however, each mine was determined at one point to be subject to MSHA 103I status which is related to excessive liberation of methane or other explosive gas. Development of the current apartment complex likely involved placement of construction fill and landscape cap, reducing tenant access to underlying soils. Use of municipal drinking water further limits exposure pathways for any potential contamination. No information was available regarding any methane gas assessments, specifically associated with the current improvements, performed at the Property or if appropriate methane gas engineering controls were included in the site design and construction. Based on this BER, Partner recommended that further information regarding the potential encroachment of methane gases at the Property should be provided by Property ownership. In the absence of existing information, Partner determined that additional assessment and/or mitigation may be necessary.

The second BER identified in the Phase I Report consisted of elevated radon levels at the Property. Review of the US EPA Map of Radon Zones (as defined in the Phase I Report) placed the Property in EPA Radon Zone 1, corresponding to an average predicted radon level exceeding 4.0 pCi/L. The EPA Action Level (the threshold for when mitigation is warranted and recommended to reduce exposure to radon gas) is 4.0 pCi/L. At the request of Fortress, Partner conducted limited, short-term radon testing at the Property. Sampling activities were initiated and completed between

December 23, 2025, and December 26, 2025. A total of twenty (20) charcoal radon devices (including QA devices) within fourteen (14) residential units were deployed throughout the Property. This included at least 10% of all ground contact units at the Property, however, no fewer than 1 radon test per each building having ground contact units. The devices were retrieved and forwarded to AirChek for radon analysis. Radon was detected at or above the Action Level in three (3) of the locations tested, and elevated radon levels were between 6.2 – 30.5 pCi/L. Based on the results of the radon testing activities, the Radon Survey Report recommended a combination of follow-up testing and mitigation within the units wherein elevated radon levels were detected.

On January 4, 2026, Partner issued a Radon Survey Report focused on short-term follow-up testing. In connection with such supplemental report, radon was detected at or above the US EPA recommended action level of 4.0 pCi/L in three of the apartment units tested. Based on the results of the initial short-term radon testing activities, Partner recommended follow-up testing to determine if mitigation is warranted. According to the analytical data, radon was detected at or above the EPA recommended "action level" (4.0 pCi/L) in nine of the locations tested. As a result, Partner's supplemental report recommended additional mitigation measures and related testing with respect to nine units at the Property.

On February 5, 2026, Partner conducted a Methane Survey at the Property to evaluate the potential for migration of methane into the Buildings as a consequence of a release or releases from historical mining operations. The investigation, which included real-time analysis of ambient air, indoor air, shallow soil, and/or sub-slab soil gas within and/or around all of the Buildings, did not identify evidence of methane gas intrusion which may represent a concern to human health and/or the environment. Therefore, Partner recommended no further investigation with respect to methane impacts from historical mining operations at the time of the survey.

At your request, Sponsor will provide you with a copy of the Phase I Report.

Zoning

According to the Zoning Report prepared by Zoning-Info, Inc., dated February 23, 2026 (the "**Zoning Report**"), the Property is zoned Multi-Family District. Under the current zoning regulations with respect to the Property, established in 2018, the Property's use as student housing is not permitted. However, because the Property was built in 2012 (prior to the establishment of the current zoning regulations), the Property's use is classified as Legal NonConforming (as defined in the Zoning Report).

Agreements and Other Matters Affecting the Property

The Property is subject to various easements, encroachments, declarations, restrictions and other agreements of record with neighboring landowners, local municipalities, utility providers, and/or the Seller, including (but not limited to) the following:

Potential Monetary Obligations Related to Interparties Agreement. There exists an Interparties Agreement by and among Mountaineer Property Co., LLC, Bojan, LLC, Mon-View, LLC, and Consolidated Coal Company, dated June 5, 2003 (the "**Interparties Agreement**"), which imposed a reimbursement obligation for the maintenance of a stormwater system. The stormwater system to which the reimbursement obligation relates is to be maintained, in part, on the land upon which the Property is situated. Should any dispute arise with respect to the reimbursement obligation under the Interparties Agreement, it is possible that the Trust and, indirectly the Beneficial Owners, could be responsible for bearing such payment obligation.

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BUSINESS PLAN

The Sponsor expects to continue to operate the Property, which is already stabilized at 93% occupancy. As of March 12, 2026, the Property is 73% preleased for the 2026/2027 academic year. The near-term focus will be on completing lease-up ahead of the upcoming academic year, addressing a limited set of deferred maintenance items, and positioning the Property for a long-term strategic relationship with WVU. Overall, the current pre-leasing shows the strength of the West Virginia market, as net effective rents at the Property are on track to grow 5.6% for 2026/2027 academic year.

The Sponsor anticipates that its leasing strategy will concentrate on capturing the remaining 21% of leases needed for stabilized occupancy by summertime (when the student housing market begins to slow down). This may be achieved through targeted outreach to students completing their housing searches late in the cycle, renewal incentives for in-place residents, and the implementation of small concessions for underperforming floorplans. Additionally, the property management team expects to work to improve the renewal pipeline by engaging residents earlier in the spring and increasing touchpoints that strengthen retention.

The Property requires minimal capital investment to address the following deferred maintenance items that were identified during due diligence.

1. Environmental reports identified nine units that require radon mitigation at a total cost of $50,150. We anticipate that this work will be completed with 120 days following acquisition of the Property. Radon is a naturally occurring gas found in nearly all soils that can enter buildings through pressure differences and small openings.

2. The Property Condition Report identified $22,500 of immediate repairs to address minor parking lot patching. This work is expected to be completed with 120 days following acquisition of the Property.

3. The Sponsor engaged a third-party to walk all units identifying $18,020 of required repairs relating to painting, fire sprinkler heads, and drywall repairs. These items should be addressed over the summer when the new class moves in.

A key component of the long-term plan is establishing the asset as a trusted housing partner to WVU. The Sponsor anticipates proactively building relationships with university housing staff, pursuing inclusion in preferred off-campus housing resources, and participating in university events that increase visibility among students and parents. The Sponsor is currently engaged in initial conversations with the newly appoint Vice President of Enrollment Management. Forming strategic partnerships with WVU could allow for increased leasing through master leases, athletic team partnerships, or housing-fair partnerships.

Overall, the Property represents a stable and low-complexity operational opportunity. By completing the remaining lease-up, curing limited deferred maintenance, and strengthening ties with WVU, the Sponsor expects that the Property will generate durable performance and sustained demand for the asset across future academic cycles.

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MARKET AND LOCATION OVERVIEW

Some of the following marketing information is excerpted from the Appraisal, a copy of which is included in the Digital Investor Kit. The Appraisal was compiled using data and information obtained from various third-party services. Appraisals, the data used to compile them, and the results that they predict, are by definition somewhat subjective and may be subject to various interpretations.

Based upon the foregoing, this information may not accurately reflect or predict all information relevant to the market area or the Property. In addition, the Trust has not independently verified any of the data included in the Appraisal. However, the Trust has revised and supplemented portions of the appraisal included in this *"Market and Location Overview"* section to minimize typographical errors, to eliminate duplicative language, and to add supplemental market information.

University Analysis

In 1862, President Abraham Lincoln signed the Morrill Act, offering land grants of 30,000 acres of federally owned land to each state that agreed to establish a college to teach agriculture and engineering. The State of West Virginia was formed the following year and, shortly thereafter, the state's legislature accepted the terms for the Morrill Act to raise the money to start the new land-grant college they called the Agricultural College of West Virginia. In 1868, the school's name was changed to West Virginia University.

Today, WVU is one of the top 100 research universities in the country, with an enrollment of over 29,000 students. WVU is in the Big 12 conference, a Power 4 football school. Recently completed facilities include a $34 million Student Recreation Center, a $26 million WVU Foundation office building, a $36 million Downtown Library Complex and the $50 million Life Sciences Building. Computer labs, learning centers, and recreational areas are located throughout campus. Additionally, the city has several hospitals within its boundaries. These include the WVU Hospital System, Ruby Memorial Hospital and Monongalia General Hospital.

The WVU campus comprises three sub-campuses. The original main campus, typically called the Downtown Campus, is in the Monongahela River valley on the fringes of Morgantown. This part of campus includes eight academic buildings on the National Register of Historic Places. The Downtown Campus comprises several architectural styles predominantly featuring red brick including Victorian Second Empire, Federal, Neoclassical, and Collegiate Gothic, among others. The Evansdale Campus, a mile and a half north-northwest, on a rise above the flood plain of the Monongahela River, was developed in the 1950s and 1960s to accommodate a growing student population, since space for expansion was limited at the Downtown Campus. The Health Sciences Campus, in the same outlying area (but on the other side of a ridge), includes the Robert C. Byrd Health Sciences Center, the Erma Byrd Biomedical Research Facility, Ruby Memorial Hospital, Chestnut Ridge Hospital, Mary Babb Randolph Cancer Center, WVU Healthcare Physicians Office Center, Blanchette Rockefeller Neurosciences Institute, WVU Eye Institute, and the WVU Children's Hospital. The Health Sciences Campus is located near Mountaineer Field, over a ridge from Evansdale Campus.

The presence of WVU, a large health care industry, a talented labor force, and the recent growth of advanced-technology development and government installations along the Interstate-68 and Interstate-79 Corridors help to ensure a stable environment for the community.

University Enrollment & Housing

Undergraduate enrollment increased 0.9% year-over-year in Fall 2026 and first time freshmen, a leading indicator for future enrollment growth, bounced back significantly in Fall 2025 with 7.2% year-over-year growth. WVU has started to target neighboring states over the past couple of years, allowing for it to start growing enrollment. Further, WVU recently hired a new President and Vice President of Enrollment Management, both of whom drastically increased enrollment in their prior posts at Coastal Carolina University and University of Tennessee – Knoxville, respectively. Both of these individuals, alongside the Governor of West Virginia, have publicly vocalized their desire to grow WVU's enrollment. The Sponsor has spoken with the new Vice President of Enrollment Management, who reiterated this message and stated a freshman enrollment target of 5,000 (a 12.9% increase over the Fall 2025 class).

West Virginia University Historical Enrollment				
	2022	**2023**	**2024**	**2025**
Overall Enrollment	24,741	24,199	23,643	23,532
% Increase		*(2.2%)*	*(2.3%)*	*(0.5%)*
First Time Freshmen	4,571	4,377	4,129	4,427
% Increase		*(4.2%)*	*(5.7%)*	*7.2%*

Source: West Virginia University Website

There are currently 5,458 dormitory beds at WVU. Compared to Fall 2025 overall enrollment of 23,532 students, this implies that there are 18,074 students who must live in off-campus housing. According to AxioMetrics, there are 7,732 beds of off-campus purpose-built student housing, reflecting 10,342 students (44% of overall enrollment) who must live in alternative housing (conventional multifamily, single-family homes, fraternity/sorority houses, etc.).

Barriers to Entry / New Supply

There is a limited amount of land available within the city limits. Additionally, city housing requirements may deter some development, as the city has a more stringent building code and requires zoning compliance. The City of Morgantown requires that no more than three unrelated persons occupy a single apartment unit or house.

This has deterred many WVU students from living in group houses, a popular option in many college towns. Thus, four-bedroom apartment units are not typically located or constructed inside the city. Those units with four-bedroom units usually require that at least two of the occupants be related. Therefore, students who require apartments with more than three bedrooms generally live in the county, where no restrictions exist. The Property is technically located in Granville and is, thereby, not subject to City of Morgantown zoning ordinances.

There is currently no development in progress or planned for student housing at WVU.

Market Analysis

Competitive Properties

Comparable properties were surveyed in order to identify the current occupancy within the competitive market. The comparable data is summarized in the table below. The majority of the comparable properties surveyed reported occupancy rates of 94% or better, and all are in average to good condition.

Market Rent Comparables											
							26/27 AY Rents				
#	Asset	Manager	Distance to Campus	Vintage	Occupancy	# Beds	Studio	1x1	2x2	3x3	4x4
1	**Domain at Town Centre**	**Greystar**	**1.0**	**2012**	**93%**	**992**	**N/A**	**$1,594**	**$895**	**$788**	**$650**
2	State on Campus	Core Spaces	0.1	2013	100%	420	$1,495	$1,700	$929	$939	N/A
3	Mountaineer Place	SC Bodner	0.1	1916	100%	114	$1,419	$1,525	N/A	N/A	$784
4	View at Morgantown	Centurion	0.1	2016	100%	534	N/A	N/A	$1,010	N/A	$750
	Direct Comps Total / Weighted Average				**100%**	**1,068**	**$1,479**	**$1,663**	**$974**	**$939**	**$756**
	Premium (Discount) to Domain						***N/A***	***4.3%***	***8.9%***	***19.2%***	***16.3%***
5	Northside Hills	Hamilton Point	0.6	2005	94%	924	N/A	N/A	$689	$579	$509
6	The Ridge	Book & Ladder	0.8	2002	92%	624	N/A	N/A	$820	$560	N/A
7	The Lofts Apartments	Tailwind Group	0.8	2010	95%	648	N/A	$1,170	$751	$660	$599
8	Mountain Valley	Peakmade	1.1	2009	94%	658	N/A	$1,017	$636	$475	N/A
9	Canvas Townhomes	Cardinal	1.4	2008	97%	920	N/A	$1,267	$757	$670	$607
10	West Run Apartments	Coastal Ridge	1.6	2007/2011	99%	988	N/A	N/A	$668	$480	$433
	All Comps Total / Weighted Average				**96%**	**5,830**	**$1,479**	**$1,261**	**$759**	**$600**	**$565**

Occupancy & Preleasing

The Property is 93% occupied as of March 2026, which is in line with its historical range and below the current occupancy of the comparable properties. As of March 12, 2026, the Property is 73% preleased for the 2026/2027 AY. As a testament to the quality of the Property, the renewal percentage for the 2025/2026 AY is nearly 50%, which is 10% higher than market standards.

Occupancy Comparison	
All Comparables	96%
Direct Comparables	100%
Subject's Historical Range	92.5%-94.5%
Subject's Current Occupancy	93%

Prior ownership initially budgeted $300,000 of concessions for the 2026/2027 AY in order to ensure lease-up so that they could facilitate a sale. To date, the Property has only used $10,000 of concessions, much less than the budgeted amount. The Sponsor is underwriting concessions usage of $125,000, which would result in net effective rent growth of 5.6%. If the Property only requires $50,000 of concessions, net effective rent growth would increase to 6.6%.

Over the past 24 months, student housing properties have stopped sharing preleasing data through market surveys. While there is no live insight into specific preleasing for all comparables, the Sponsor has gained insight into select properties that are either actively marketed for sale or are owned/operated by companies that Fortress has strong relationships with. From this subset, preleasing appears to be strong in the market with multiple properties 10%+ ahead of the same time last year and tracking for high single-digit year-over-year rent growth. Further, Yardi's January Student Housing National Report noted that WVU was preleased 19% ahead of the same time last year, which is 5th best in the country.

University	YoY Growth in % Preleased
University of Wisconsin	26%
Georgia Tech	26%
University of Illinois	21%
Virginia Tech	19%
West Virginia University	19%

ACQUISITION OF THE PROPERTY AND FINANCING TERMS

The Trust acquired the Seller's interest in the Property pursuant to the PSA. On March 11, 2026, the Trust completed the Acquisition with proceeds derived from (i) proceeds from the Depositor Loan, and (ii) proceeds from the Loan from the Lender. At the time of the Acquisition, the Trust incurred the obligation to pay the Manager the Acquisition Fee and the Financing Fee. In connection with the formation of the Trust and the foregoing transactions, the Trust issued to the Depositor all of the Class 2 Beneficial Interests. Through the proceeds derived from the syndication of Interests pursuant to this Offering, the Trust intends to redeem the Class 2 Beneficial Interests issued to the Depositor.

Permanent Financing

The Lender obtained the Appraisal for the Property prepared by the Appraiser, dated February 13, 2026, reflecting a market value, "As Is" of $65,200,000.

Contemporaneously with the Acquisition, the Trust obtained the Loan in the original principal amount of $35,805,000 from the Lender. The Loan Documents executed concurrently with the Acquisition and the funding of the Loan provide for a $35,805,000 Loan with a 10-year term, and a fixed interest rate equal to 6.098% per annum. During the 10-year Loan term, the Trust is required to make interest-only payments.

The Trust's interest in the Property is subject to a first-priority mortgage and other standard collateral rights granted in favor of the Lender, to secure the Trust's obligations under the Loan. As long as the Loan remains outstanding, the Trust will have an Independent Trustee in compliance with the Loan Documents. The Loan is "non-recourse" to the Trust except for standard non-recourse carve outs contained within the Loan Documents.

As Beneficial Owners in the Trust, the Purchasers are not required to execute personal guarantees for any portion of the Loan or an environmental indemnity agreement in favor of the Lender and will not incur any personal liability with respect to the operation of the Property or under the Loan Documents, including liability for environmental claims. However, since the Property secures the Trust's obligations under the Loan, Beneficial Owners could lose their entire Interests if the Trust were to default on the Loan and the Lender were to foreclose on the Property. *See "Risk Factors – Risks Relating to Financing of the Property."* The material terms of the Loan Documents are summarized below. Prospective Purchasers are encouraged to review a complete set of each of the Loan Documents prior to subscribing for the Interests.

Summary of Loan Terms

Principal Amount	$35,805,000
Term; Maturity Date	10 years, maturing March 11, 2036
Interest Rate	6.098% per annum
Amortization	Monthly, interest-only payments until March 11, 2036
Late Charges	For any payment not timely made, the Trust will pay to the Lender upon demand an amount equal to the lesser of 4% of such unpaid sum or the maximum amount permitted by Applicable Law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment.
Repayment	Up to and including March 11, 2036, the Loan will be interest-only for its term, resulting in debt service payments until such time of approximately $2,215,533 per year.
Reserves	As required under the Loan Documents, the Trust established and funded $1,862,684 into the Replacement Reserve and $0 into the Immediate Repair Reserve at the Acquisition. In addition, at the Acquisition, the Lender required initial contributions in escrow of $41,072 into the Tax Reserve, $50,000 into the Deductible Gap Reserve, and $50,150 into the Radon Reserve, all of which were funded from Loan proceeds.

Assumption

The Lender has agreed not to unreasonably withhold consent to the transfer of the Property and the assumption of the Loan if certain conditions are met. The Lender is entitled to receive any reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by the Lender in connection with such a transfer and may also be entitled to an assumption fee plus processing and administrative fees associated with the transfer.

Collateral

The Loan is secured by (i) a first priority lien or deed of trust (the "**Mortgage**") and other security instruments in or related to the Trust's interest in the Property, and (ii) a valid and perfected security interest in all personal property owned by the Trust located on or used in connection with the Property and any improvements thereon. The Master Tenant has entered into a separate Subordination Agreement (the "**Subordination Agreement**") pursuant to which the Master Lease will be subordinated to the Loan and the Master Tenant's interest in the Property and tenant leases has been assigned to the Lender as additional collateral.

Prepayment

Prepayment in in whole or in part is generally not permitted under the Loan Documents.

Impositions

The Trust is required to make monthly deposits into an imposition account for payment of property taxes, assessments, insurance premiums and other similar charges affecting the Property, in amounts established by the Lender in its discretion. The Master Tenant is required to fund these deposits as part of Additional Rent under the Master Lease.

Insurance

The following insurance coverages are required under the Loan Documents, among others:

- insurance with respect to the Improvements (as defined in the Loan Documents) and, if applicable, the Personal Property (as defined in the Loan Documents) insuring against any peril now or hereafter included within the "Special" or "All Risks" Causes of Loss form (which will not exclude fire, lightning, windstorm (including named storm), hail, explosion, riot, civil commotion, aircraft, vehicles and smoke);
- commercial general liability insurance against all claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property;
- loss of rents and/or business interruption insurance;
- workers' compensation, subject to the statutory limits of the state in which the Property is located, and employer's liability insurance; and
- umbrella/excess liability insurance

Events of Default

The "Events of Default" under the Loan Documents include the following, among others:

- Any failure by the Trust to pay or deposit when due any amount required by the Loan Documents;
- Any failure by the Trust to pay taxes or other charges;
- Any failure to maintain the insurance coverage required by any Loan Document;
- If certain representations or covenants contained in the Loan Documents are breached or violated;
- If any warranty, representation, certification, or statement of the Trust, Master Tenant, Sponsor, or Guarantor (defined below) in the Loan Documents is false, inaccurate, or misleading in any material adverse respect when made;
- The occurrence of certain bankruptcy or insolvency events described in the Loan Documents;

- If the Trust or Master Tenant will be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property;
- If the Property becomes subject to any lien other than a lien for any Taxes (as defined in the Loan Documents) not then due and payable and the lien will remain undischarged of record (by payment, bonding or otherwise) for a period of 60 days;
- If any federal tax lien is filed against the Trust, any SPE Component Entity (as defined in the Loan Documents), Master Tenant, Signatory Trustee, Guarantor or the Property and same is not discharged of record (by payment, bonding or otherwise) within 30 days after same is filed;
- If any default occurs under any guaranty or indemnity executed in connection with the Loan Agreement (including, without limitation, the Environmental Indemnity and/or the Guaranty) and such default continues after the expiration of applicable grace periods, if any;
- any of the assumptions contained in the Non-Consolidation Opinion (as defined in the Loan Documents), or in any New Non-Consolidation Opinion (as defined in the Loan Documents) are untrue or will become untrue in any material respect (with certain exceptions defined in the Loan Documents);
- If the Trust or Master Tenant fail to deliver to the Lender within 30 days after request by the Lender any Required Financial Item (as defined in the Loan Documents);
- If the Trust or Master Tenant defaults under the Property Management Agreement beyond the expiration of applicable notice and grace periods, if any, thereunder or if the Property Management Agreement is canceled, terminated or surrendered or expires pursuant to its terms, unless in such case the Trust or Master Tenant will enter into a new property management agreement with a Qualified Manager (as defined in the Loan Documents) in accordance with the applicable terms and provisions of the Loan Documents;
- Failure of a Transfer Distribution to occur in accordance with the requirements set forth in the Loan Documents;
- If (i) the Trust fails (beyond any applicable notice or grace period) to pay any charges payable under any REA or Material Agreements (each as defined in the Loan Documents) as and when payable thereunder, (ii) Borrower defaults under any REA or Material Agreements beyond the expiration of applicable notice and grace periods, if any, thereunder, (iii) any REA or Material Agreements are amended, supplemented, replaced, restated or otherwise modified without the Lender's prior written consent or if the Trust or Master Tenant consents to a transfer of any party's interest thereunder without the Lender's prior written consent, or (iv) any REA or Material Agreements and/or the estate created thereunder is canceled, rejected, terminated, surrendered or expires pursuant to its terms, unless in such case the Trust and/or Master Tenant enters into a replacement thereof in accordance with the applicable terms and provisions hereof;
- If (i) the Trust or Master Tenant defaults under the Master Lease, and the default is not cured prior to the expiration of any applicable grace and/or notice period therein provided, (ii) any event referred to in the Master Lease will occur which would cause the Master Lease to automatically terminate by its terms, (iii) there will be a sale, pledge or encumbrance of the Master Lease by the Trust or Master Tenant, (iii) the Master Lease expires pursuant to its terms, (iv) the leasehold estate created by the Master Lease will be surrendered, (v) other than in connection with a Transfer Distribution or as otherwise permitted by the Loan Documents,

the Master Lease will be terminated or cancelled for any reason, (vi) any of the terms, covenants or conditions of the Master Lease will in any manner be amended without the consent of the Lender, or (vii) if the Master Tenant will fail to exercise any renewal option under the Master Lease for so long as the Loan is outstanding; and/or

- If there will be default under any of the Loan Documents beyond any applicable cure periods, whether as to the Trust, Master Tenant or the Property, or if any other such event will occur or condition will exist, if the effect of such event or condition is to accelerate the maturity of any portion of the Loan or to permit the Lender to accelerate the maturity of all or any portion of the Loan.

Remedies

In addition, other events of noncompliance with the terms and conditions of the Loan Documents will become events of default subject to applicable cure periods.

Upon the occurrence of an Event of Default, the Lender may exercise all remedies available under the Loan Documents at law or in equity, including but not limited to:

- Declare the Loan to be immediately du and payable;
- Invoke contractual remedies under the Loan Agreement, the Security Instrument, the Note or the other Loan Documents;
- Foreclose the Security Instrument in any manner and for any amounts secured by the Security Instrument then due and payable as determined by Lender in its sole discretion; or
- Sever the Note and the other Loan Documents into one or more separate notes, security instruments and other security documents;

Indemnification

The Trust will generally indemnify the Lender and its affiliates against losses incurred in connection with the Loan, the security arrangements or the Replacement Reserve. In addition, the Trust executed an Environmental Indemnity Agreement, pursuant to which the Trust will generally indemnify the Lender and its affiliates against environmental liabilities arising from ownership and operation of the Property. Purchasers are not directly subject to any such indemnification obligations.

Limited Recourse

The Loan is non-recourse, meaning that the Lender may only seek recovery against the Trust from the liquidation of the collateral for any amounts that remain due under the Loan after a default. However, the Loan contains certain events of default that would allow the Lender, in addition to foreclosing on the Property and the personal property of the Trust related thereto, to proceed against the Trust itself (but not against Purchasers) to repay losses incurred by the Lender or, in some instances, the full amount of the Loan (i.e., certain non-recourse carve outs). Thus, defaults for nonrecourse carve out items may trigger "springing" liability to the Trust in an amount equal, in certain instances, to the full amount of the Loan.

Purchasers may request copies of the Loan Documents from the Sponsor for further review and details concerning these potential obligations.

Limited Guaranty

DBSO has executed a guaranty under which it will be responsible for losses, claims, damages or liabilities incurred by the Lender as a result of certain non-recourse carve out events over which DBSO and its affiliates exercise relative control. Purchasers will not be required to execute a personal guaranty.

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LEADERSHIP TEAM

The Sponsor is led by the senior management team consisting of the members listed below. The Investment Committee consists of Timothy Sloan (Chief Investment Officer), Elliot Edwards (Deputy Chief Investment Officer), Cyril Courbage (Deputy Chief Investment Officer) and David Hammerman (Chief Operating Officer). Other key senior members of the team include David Moson (Head of U.S. Asset Management) and Kerry Campelo (Chief Investment Officer). Please refer to the biographies below for more information.

The Manager is supported by a seasoned team of Fortress employees. As of September 30, 2025, the U.S. Real Estate Equity team at Fortress comprises 14 Investment Professionals and 30 Asset Management Professionals in North America. These professionals are supplemented by 125 Operations Professionals across accounting, operations, legal and information technology.

Key Leadership Biographies

Timothy Sloan // Vice Chairman & Global Head of Real Estate

Mr. Sloan is Vice Chairman and Global Head of Real Estate, based in Los Angeles. He serves on the Leadership Committee, several investment committees, and the Environmental, Social and Governance Committee. Mr. Sloan began his career at Wells Fargo & Company in 1987. He held leadership roles in the company's credit and real estate operations and headed groups including Commercial Banking, Commercial Real Estate and Specialized Financial Services. He held various executive roles such as CAO, CFO and COO. In 2016, Mr. Sloan was appointed CEO, President and member of the company's Board of Directors. He retired from Wells Fargo in 2019 after 31 years of service. Mr. Sloan is a member of the Board of Trustees of the California Institute of Technology, serving as Chair of the Board's Investment Committee and also serves on the Board of Governors of the Huntington Library, Art Museum and Botanical Gardens. In addition, Mr. Sloan is a member of the Advisory Board of the University of Michigan's Ross School of Business, from which he received an MBA in 1984.

Cyril Courbage // Deputy CIO, FRO Funds

Mr. Courbage joined Fortress in 2012, as a Managing Director in London, to run the commercial real estate business in Europe. Prior to joining Fortress, Mr. Courbage spent 10 years at Deutsche Bank in London where he was the European head of the Commercial Real Estate group, an activity encompassing financing and special situation principal investments. Prior to that, Mr. Courbage spent six years at Merrill Lynch, initially in the Distressed Debt group and subsequently as a director of the real estate Global Principal Investment business. Mr. Courbage has an MBA from Dartmouth's Tuck School of Business and a BA in International Economics from The American University of Paris.

Elliot Edwards // Deputy CIO, FRO Funds

Mr. Edwards is a Managing Director in Fortress's San Francisco office responsible for sourcing and executing commercial real estate transactions. Since joining Fortress in 2011, Mr. Edwards has focused on opportunistic equity and distressed debt acquisitions across all property types and US geographies. Prior to joining Fortress, Mr. Edwards worked for Barclays in their real estate investment banking division. Previously, Mr. Edwards worked for Bank of America working out defaulted CMBS loans. Mr. Edwards received a BS in Economics from Duke University, where he graduated Magna Cum Laude.

David Hammerman // COO, Fortress Global Real Estate Equity

Mr. Hammerman is a Managing Director and the Chief Operating Officer of the Fortress Real Estate Funds based in the Menlo Park office and is a member of the FRO Investment Committee. Mr. Hammerman previously served in an investment capacity with responsibility for equity and structured debt investments. Prior to joining Fortress in 2018, Mr. Hammerman was a Vice President for Mack Real Estate Credit Strategies, based in Los Angeles and responsible for leading West Coast originations. Previously, Mr. Hammerman was a Vice President for ICONIQ Capital's real estate direct investing team, and prior to that was based in the Blackstone's Los Angeles office with responsibility for sourcing, underwriting and executing transactions across all property types. Mr. Hammerman received a BS in Business Administration from Georgetown University's McDonough School of Business, where he graduated Magna Cum Laude, and is proud to serve on the Steering Committee of the university's Steers Center for Global Real Estate.

Kerry Campelo // CFO, Fortress Global Real Estate Equity

Kerry Campelo is a Managing Director and Chief Financial Officer of the Fortress Japan Opportunities Funds and Fortress Real Estate Opportunities Funds. Prior to joining Fortress in 2003, Ms. Campelo was an Associate in the accounting and finance department at Nomura Securities in the fixed income group. Prior to Nomura, she was an Associate for Deutsche Bank Securities working as an analyst in the derivatives department. Ms. Campelo graduated from Loyola University in Maryland, with a BBA in Business Administration majoring in Accounting.

David Moson // Head of U.S. Real Estate Asset Management

Mr. Moson is a Managing Director based in Dallas and Head of U.S. Real Estate Asset Management. Prior to joining Fortress, Mr. Moson was the head of the real asset management group at Garrison Investment Group. From 2001 to 2007, Mr. Moson was a principal in a real estate development joint venture with Fortress. Prior to 2001, he was a Vice President in the Structured Finance Group of Nomura Securities International. Prior to joining Nomura, Mr. Moson was an Associate in the CMBS group of JPMorgan. From 1991 until 1994, Mr. Moson served as an Associate in the Investment Banking Division of Bear, Stearns & Co. in New York. Mr. Moson started his career as a Financial Analyst in the Mortgage Finance Group at Goldman Sachs. Mr. Moson received a BA in Economics from Columbia.

Team Organizational Chart



[1] Employee counts as of September 30, 2025 unless specified otherwise (adjusted for one European MD departure). [2] Includes select accounting, operations, legal and IT professionals who dedicate partial or full time to the Global Real Estate Funds.

THE SPONSOR AND ITS AFFILIATES

The information presented in this section represents the historical experience of investment programs for which the Sponsor or an affiliate is or was the sponsor. Please note that the investment programs described herein employ both credit and equity strategies in the real estate sector. Of the real estate programs referenced below, such programs may involve leverage and, as a result, the returns described herein may not directly correlate with or be achievable for the Offering, which does not include any leverage. A prospective Purchaser should not assume that he, she or it will experience positive returns, if any, comparable to those experienced by such prior programs. This Memorandum does not include prior performance tables.

CAUTIONARY NOTE: FREX DB SERIES I DST IS THE FIRST DELAWARE STATUTORY TRUST PROGRAM SPONSORED BY FORTRESS. MOST PRIOR PROGRAMS DISCUSSED HEREIN HAVE BEEN OFFERED AS PRIVATE AND PUBLIC FUND OFFERINGS, INCLUDING REITS. BY PURCHASING INTERESTS, PROSPECTIVE PURCHASERS WILL NOT ACQUIRE AN INTEREST IN ANY OF THE PREVIOUSLY ACQUIRED PROPERTIES. IT SHOULD NOT BE ASSUMED THAT PURCHASERS ACQUIRING INTERESTS WILL EXPERIENCE RETURNS COMPARABLE TO THOSE EXPERIENCED BY PARTICIPANTS IN PRIOR PROGRAMS.

Fortress Overview

Fortress is a leading, highly diversified global investment manager. Founded in 1998, Fortress manages $54 billion of AUM on behalf of approximately 2,000 institutional clients and private investors worldwide across a range of credit and real estate strategies. FIG LLC, a wholly-owned subsidiary of Fortress, has been a registered investment advisor since 2004. Fortress was publicly traded between 2007 and 2017, and is currently privately owned, with a consortium led by Mubadala Capital as the majority equity owner. Today, Fortress continues to operate as an independent investment manager under the Fortress brand, with full autonomy over investment processes, personnel, and day-to-day decision making. Fortress's broad investment strategies include corporate credit, asset-based finance, real estate, private equity, insurance solutions, and multi-manager offerings.

Fortress is headquartered in New York and Dallas, with affiliates that have offices in Abu Dhabi, Atlanta, Greenwich, Hong Kong, London, Los Angeles, Madrid, Menlo Park, Rome, Sydney and Tokyo.

Fortress has over 20 years of experience in real estate investing across product types and geographies with over $29 billion invested across the capital stack. Within the targeted initial asset classes for the DST program – senior housing, student housing and multifamily – Fortress has invested $919 million of equity across $3.2 billion of transactions.

Led by Timothy Sloan, the Fortress North American and European CRE Team consists of over 65 professionals, including investment deal team members and asset management. Of this, the North American CRE Team consists of 14 investment professionals and 30 asset management professionals. The North American CRE Team will be primarily responsible for sourcing, acquiring, analyzing, structuring and the ongoing management of investment opportunities for the Funds.

Please see Fortress's website at www.fortress.com for additional information relating to Fortress and its management and businesses.

IN CONSIDERING THE PRIOR PERFORMANCE INFORMATION CONTAINED HEREIN, PROSPECTIVE PURCHASERS SHOULD BEAR IN MIND THAT PAST PERFORMANCE IS NOT INDICATIVE OF FUTURE RESULTS, AND THERE CAN BE NO ASSURANCE THAT COMPARABLE RESULTS WILL BE ACHIEVED IN THE FUTURE.

IT IS ANTICIPATED THAT THE OPERATING RESULTS OF THE TRUST WILL BE SIGNIFICANTLY DIFFERENT THAN THOSE OF THE PRIOR SPONSOR PROGRAMS.

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LIMITED FIDUCIARY AND OTHER DUTIES

Delaware law permits the trust agreement of a DST to expand or restrict the duties (including fiduciary duties) of Trustees, managers or other persons managing the business and affairs of a DST owed by the Trustees to the trust or its beneficial owners or owed by such managers or other persons to the trust, its beneficial owners or its Trustees, other than the implied covenant of good faith and fair dealing.

In the present case, the Trust Agreement provides that the Trustees' and the Manager's duties, including fiduciary duties, and liabilities relating thereto, to the Trust and the Beneficial Owners are limited to those duties (including fiduciary duties) expressly set forth in the Trust Agreement and the liabilities relating thereto. Further, as a measure of protection for purposes of the contemplated Section 1031 Exchanges, the Trust Agreement provides that the Beneficial Owners do not have any power to give direction to the Trustees, the Manager or any other person, and that any attempt to exercise power will not cause such Beneficial Owner to have duties (including fiduciary duties) or liabilities relating thereto, to the Trust or to any other Beneficial Owner. As provided in the Trust Agreement, these duties may be less than are applicable to other investments, such as a partnership, limited liability company or corporation.

The Trust Agreement further provides that none of the Trustees or the Manager will be liable to the Beneficial Owners for certain acts or omissions performed or omitted by it except for acts or omissions arising out of willful misconduct, bad faith, fraud or gross negligence, and that the Beneficial Owners will indemnify the Trustees and the Manager and each of their directors, officers, employees, and agents for any liability suffered by them arising out of their activities in connection with the Trust, except for liabilities resulting from willful misconduct, bad faith, fraud or gross negligence. *See "Summary of the Trust Agreement."* Accordingly, the Beneficial Owners may have a more limited right of action than would otherwise be the case, absent such provisions.

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CONFLICTS OF INTEREST

The structure and proposed method of operation with respect to this Offering creates certain inherent conflicts of interest between the Trust, the Beneficial Owners, the Sponsor and its affiliates. Certain restrictions have been provided in the Trust Agreement that are designed to protect the interests of the Beneficial Owners in this regard. Notwithstanding the foregoing, the Sponsor and its affiliates will be subject to various conflicts of interest arising out of their relationships with the Trust and Beneficial Owners.

Acquisition Fee

The Trust incurred the obligation to pay the Manager an Acquisition Fee in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property for the Manager's services in the structuring and negotiation of the acquisition of the Property.

Financing Fee

The Manager will earn a Financing Fee in an amount up to 0% of the gross proceeds of the Loan evidenced by the Loan Documents for its and its management team's services in negotiating the financing of the Property.

Repayment of the Depositor Loan

The Acquisition was funded, in part, through proceeds derived from a Depositor Loan made by DBSO to the Depositor. The total amount due from the Depositor to DBSO to repay the Depositor Loan exceeds the value of the Depositor's Class 2 Beneficial Interests acquired by the Depositor and issued by the Trust because the Depositor Loan includes interest. Such interest constitutes repayment of the Closing Costs funded by the Depositor in connection with the Acquisition.

Compensation and Reimbursements Irrespective of Property Profitability

The Sponsor and its affiliates will receive certain compensation from the Trust for services rendered regardless of whether rent is paid to the Trust. *See "Estimated Use of Proceeds"* and *"Compensation and Fees"* in this Memorandum.

Competition with Affiliates

The Sponsor and its affiliates are involved in the acquisition, development and management of real property and are facilitators of Section 1031 Exchanges. Any affiliated entity, whether or not currently existing, could compete with the Trust and the Beneficial Owners in the sale or operation of the Property. For example, the Sponsor or its affiliates may in the future own, finance or represent other properties in the same market as the Property, which may similarly compete for tenants with respect to the Property.

Potential Competition with Other Properties Owned or Managed by the Sponsor or its Affiliates

Neither the Sponsor nor its affiliates own or operate additional properties that compete with the Property.

Provision by Affiliates of Services to the Trust or to Persons Dealing with the Trust

The Sponsor and its affiliates are permitted to provide services to, and otherwise deal or do business with, the Trust or Beneficial Owners or persons that deal with the Trust or Beneficial Owners, although no such services or activities (other than the services and activities disclosed in this Memorandum) are contemplated as of the date of this Memorandum. To the extent that the Manager or any of its affiliates performs any services for the Trust or any of the Beneficial Owners that are disclosed in this Memorandum and that are also contemplated by the Trust Agreement, then (i) the Manager or such affiliate may not receive compensation that exceeds the compensation provided for in the Trust Agreement, and (ii) any such services must be reflected in a budget provided by the Manager and approved by the Trust, or otherwise approved by the Trust.

Master Insurance Policy

Insurance procured with respect to the Trust, the Manager, the Master Tenant and their respective affiliates is expected to be part of a master insurance policy held by Fortress. It is anticipated that the Trust, the Manager, the Master Tenant and other entities in the Trust's structure will ratably share in the costs associated with their respective coverage and with pre-funding loss reserves under the master insurance policy, and such cost sharing may or may not be equitable. Further, the Trust, the Manager, the Master Tenant and their respective affiliates may experience certain conflicts of interest associated with sharing coverage under the master insurance policy.

Future Conflicts Related to Affiliated Title Company(ies)

It is possible that, at some indeterminable point in the future, Fortress or one of its affiliates may organize or acquire one or more businesses that are primarily engaged in issuing title insurance policies. Should the foregoing materialize, affiliates of the Sponsor may acquire title insurance policies from such newly organized or acquired affiliate and, in connection with such policies, conflicts of interests will arise by virtue of the Fortress-sponsored property-owning Delaware statutory trusts compensating such Fortress affiliate issuing the title insurance policy(ies) to receive a title insurance policy.

Competition for Sponsor's Management Services

The Sponsor believes that it will have sufficient time to discharge fully its responsibilities to the Trust and Beneficial Owners and to other business activities in which it is or may become involved. However, the Sponsor and its affiliates are engaged in substantial other activities apart from their responsibilities under the Trust Agreement. Accordingly, the Sponsor and its affiliates will devote only so much of their time to the business of the Trust as is reasonably required in their judgment. The Sponsor and its affiliates will have conflicts of interest in allocating management time, services and functions among the properties held through this or any other program they may sponsor, as well as with other business ventures in which they are or may become involved.

Exercise of the FMV Option by the Option Holder

The Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more Exchange Entities for cash pursuant to the FMV Option, *less* a 2.5% Cash Redemption Fee. The Cash Redemption Fee will be remitted to the Manager; *provided*, *however*, that the Managing Broker-Dealer will be entitled to receive 7.5% of the value of the Cash Redemption Fee received by the Manager; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. The foregoing notwithstanding, the Option Holder may alternatively present each Beneficial Owner the option but not the obligation to choose to receive Units of an equal aggregate value to the Cash Value of such Beneficial Owner's Interests, as of the date the FMV Option is exercised (in lieu of cash), in an Exchange intended to qualify as a tax-deferred exchange under Code Section 721. For the purposes of the FMV Option, the value of a Beneficial Owner's Interests will be determined by reference to the fair market value of the Property, which fair market value will be determined by an independent appraisal firm selected by the Option Holder.

Sale of the Property

If the Manager decides to sell the Property to a third party, the Manager will be paid a Disposition Fee from the Trust, and the Managing Broker-Dealer will be entitled to receive 7.5% of the value of the Disposition Fee received by the Manager; *provided*, *however*, that no Disposition Fee will be charged in connection with any transaction for which the Manager or its affiliates receive a Cash Redemption Fee; *provided*, *further*, that no amounts constituting a Disposition Fee will be charged unless and until, at the time of the contemplated disposition, the Beneficial Owners of the Trust have received a 1.0x multiple on invested capital (including cashflow) in connection with their participation in the Trust. The right to receive or participate in the Disposition Fee may provide the Manager with an incentive to encourage a sale of the Property at a time that is not optimal for, or on terms that are not advantageous to, the Trust or the Beneficial Owners. Furthermore, the mandatory partial reallowance of the Disposition Fee to the Managing Broker-Dealer may provide the Manager with an incentive to encourage a sale of the Property to an affiliate on terms that are not as advantageous to the Trust or the Beneficial Owners as the terms of a sale to a third party.

The Property Manager

The Property Manager, a third party unrelated to the Sponsor, is subject to conflicts of interest among its activities, roles and duties for other entities, and roles and duties it has assumed on behalf of the Trust. Conflicts exist in allocating management time, services and functions between its current and future activities and the Trust. Further, the Property Manager is unaffiliated with the Sponsor or the Trust and does not intend to invest its own funds in the Interests. Accordingly, the Property Manager's interests may not be aligned with those of the Purchasers. For example, if the Property Manager or any of its affiliates were to acquire multifamily residential properties or student housing properties in the vicinity of the Property, then the Property Manager could direct tenants away from renewing their rental agreements and toward leasing apartment units at such other properties.

Ownership of Interests

The Sponsor or its affiliates may elect to acquire or retain a portion of the Interests or to sell or transfer Interests to persons who are related to it, including employees or persons who have other relationships with it or its affiliates. In such event, although the rights of Beneficial Owners are extremely limited under the terms of the Trust Agreement, the interests of the Sponsor and its affiliates (or other closely connected parties) as Beneficial Owners may not be aligned with those of the Trust or other Beneficial Owners. Further, in the event of a Transfer Distribution, Beneficial Owners who are affiliates of the Sponsor could control the Springing LLC as members.

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SUMMARY OF THE MASTER LEASE

The Property will be leased by the Trust to the Master Tenant pursuant to the Master Lease. A copy of the Master Lease is attached to this Memorandum as **Exhibit A**. The Master Lease is, with certain exceptions regarding Landlord Costs, a "net" lease, allocating to the Master Tenant all expenses associated with the Property. Real estate taxes and property insurance are funded by the Master Tenant through monthly payments based on projected amounts and reconciled on an annual basis, and that the Trust may procure insurance or remit payments for taxes or insurance as an administrative or lender-required convenience using Master Tenant funds. The Master Tenant operates the Property and will be entitled to retain any positive difference between the Property's operating cash flow and the Master Lease payments, which include but are not limited to the payments due on behalf of the Trust under the Loan Documents. Likewise, the Master Tenant will bear the risk of any cash shortfalls between the net operating cash flow, after certain mandatory payments, and the payments required under the Master Lease, provided it may defer a portion of the Additional Rent and Supplemental Rent as further described below. The following is merely a summary of some of the significant provisions of the Master Lease and is qualified in its entirety by the full text thereof.

Term

The Master Lease commenced on the date of the Acquisition, and will continue for a base term expiring on the Maturity Date (as defined in the Loan Agreement) of its effective date, unless sooner terminated pursuant to the terms of the Master Lease.

Base Rent, Additional Rent, and Supplemental Rent

The following Rent is due under the Master Lease on a monthly basis: (1) Base Rent in the amount shown below and as set forth in the Master Lease; (2) Additional Rent in an amount equal to the amount by which Gross Revenues exceed the Additional Rent Breakpoint (as defined in the Master Lease and set forth in the table below) up to a maximum annual ceiling; and (3) when Base Rent and Additional Rent have been fully paid, Supplemental Rent in an amount equal to 90% of the amount by which annual gross revenues exceed the Supplemental Rent Breakpoint (as defined in the Master Lease and set forth in the table below). The difference between the Base Rent and the Additional Rent Breakpoint for the Property for a given month, if any, after taking into account any expenses of the Property, will inure to the benefit of the Master Tenant and will not be available for distributions to the Trust or the Purchasers.

In addition to Base Rent, the Master Tenant is responsible for funding real estate taxes and property insurance through separate monthly payments based on projected amounts, which are reconciled annually pursuant to the Master Lease. Any amounts funded by the Master Tenant for real estate taxes and insurance in excess of actual amounts due for a period are carried forward to fund future obligations rather than refunded, any shortfalls are paid by the Master Tenant, and any unapplied amounts funded by the Master Tenant revert to the Master Tenant upon termination of the Master Lease.

Additionally, the Master Lease contemplates certain uncontrollable costs with respect to the Property, primarily relating to utilities, weather-related costs, and compliance with governmental requirements (but excluding real estate taxes and insurance); in the event that (a) the Projected Uncontrollable Costs for any calendar year exceed the actual uncontrollable costs, the Master Tenant is required to pay the Trust the amount of such excess; and (b) the actual uncontrollable costs for any calendar year exceed the Projected Uncontrollable Costs, the Master Tenant is responsible for the payment of such excess, but is entitled to a reimbursement by offsetting such amount against Additional Rent. Any reconciliation of Uncontrollable Costs is effected pursuant to Section 4.5 of the Master Lease and does not affect the funding or reconciliation of real estate taxes or insurance.

The monthly Base Rent and breakpoints and ceilings for the calculation of monthly Additional Rent and Supplemental Rent are specified in **Exhibit A** to the Master Lease, replicated below.

Rent Amounts Pursuant to the Master Lease Agreement

Lease Period	Base Rent	Gross Revenue Additional Rent Breakpoint	Additional Rent Maximum	Gross Revenue Supplemental Rent Breakpoint
Year 1	$2,929,474	$6,368,000	$2,176,000	$8,544,000
Year 2	$2,946,309	$6,547,000	$2,160,000	$8,707,000
Year 3	$2,947,302	$6,669,000	$2,130,000	$8,799,000

Year 4	$2,954,556	$6,777,000	$2,274,000	$9,051,000
Year 5	$2,962,010	$6,885,000	$2,425,000	$9,310,000
Year 6	$2,975,736	$6,999,000	$2,575,000	$9,574,000
Year 7	$2,977,544	$7,108,000	$2,737,000	$9,845,000
Year 8	$2,985,635	$7,228,000	$2,900,000	$10,128,000
Year 9	$2,993,949	$7,348,000	$3,075,000	$10,423,000
Year 10	$3,008,558	$7,481,000	$3,070,000	$10,551,000

If the Master Tenant fails to pay Additional Rent or Supplemental Rent amounts to the Trust despite the Property's operating cash flow for a period exceeding the Additional Rent and/or Supplemental Rent breakpoints provided in the Master Lease (for example, because associated expenses of the Property are substantial during such period), then in such event, the Master Tenant may defer the payment of the applicable portion of the Additional Rent and/or Supplemental Rent due under the Master Lease until cash flow becomes available to pay such shortfall amounts or upon disposition of the Property. In such event, interest will accrue on the deferred rent, if any, in accordance with the terms of the Master Lease, and payment of the Asset Management Fee will be deferred. Any accrued rent plus interest thereon will be due and payable in full upon a disposition of the Property. Deferral of rent may cause the Beneficial Owners to recognize taxable income prior to the time rent is actually paid to them. *See "Federal Income Tax Consequences – Code Section 467 Rent Allocation."*

If amounts paid or funded by the Master Tenant or the Trust for Rent, taxes, insurance, reserves, or other project-related costs are later determined to differ from the amounts actually due based on final audits, reconciliations, lender statements, or similar determinations, the parties will cooperate in good faith to reconcile such differences so that the correct amounts are paid, credited or offset. Interim payments and deposits may be based on projected amounts determined by the Trust, subject in all cases to final reconciliation based on actual amounts. These reconciliation provisions are intended solely to ensure accurate settlement of amounts and do not alter the underlying economic allocation of responsibility between the parties.

Impositions

Under the Master Lease, the Master Tenant is required to pay all ancillary fees and costs related to any Permitted Mortgage (excluding fees and costs attributable to a Landlord default under such Permitted Mortgage or other Landlord costs and expenses), and all taxes (including all real property taxes and personal property taxes), assessments, charges for utilities not paid for by subtenants, excises, levies, license and permit fees and other governmental impositions and charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever, which are imposed, levied upon or assessed against or which arise with respect to the Property (or any portion thereof) (collectively, the "**Impositions**"). Real estate taxes are economically borne by the Master Tenant and are funded through monthly deposits based on projected amounts, with annual reconciliation pursuant to the Master Lease.

Insurance

Pursuant to the Master Lease, the Trust procures property and lender-required insurance for the Property, while the Master Tenant procures operational and commercial liability insurance. All insurance costs are economically borne by the Master Tenant and are funded through monthly deposits based on projected amounts, with annual reconciliation pursuant to the Master Lease. The Trust may remit insurance premiums directly to carriers as an administrative or lender-required convenience using Master Tenant funds.

Maintenance and Repair; Alterations

Pursuant to the Master Lease, except for Landlord Costs, the Master Tenant is solely responsible, at its own cost and expense, for the condition, operation, repair, replacement, maintenance, and management of the Property (including the costs associated with any property management services), and is required to maintain the Property in substantially the same condition as of the commencement of the Master Lease, ordinary wear and tear excepted. Notwithstanding the foregoing, the Trust is obligated under the Master Lease to fund or reimburse the Master Tenant solely for the Landlord Costs. The Master Tenant may also have access to certain reserves established by the Trust, including the Supplemental Trust Reserve (to the extent available and permitted under the Master Lease and applicable Loan Documents), to meet its obligations.

The Master Tenant may make structural and non-structural alterations to the Property in its sole and absolute discretion, and at its sole cost and expense (other than Landlord Costs, which will be at the Trust's expense), provided

that (i) all permits and authorizations of all municipal departments and subdivisions have been obtained; (ii) the alterations do not materially decrease the value of the Property, result in a material change in the usefulness of the Property for its intended use or violate the terms of a lease with the Tenant of the Property; (iii) the alterations are made promptly and in a good workmanlike manner in compliance with all permits and authorizations; (iv) the cost of the alterations will be promptly paid by the Master Tenant so that the Property is at all times free and clear of any liens and/or encumbrances; (v) the alterations will be and become the property of the Trust upon termination of the Master Lease; (vi) the alterations will comply with the terms of the Loan; and (vii) certain levels of insurance will be obtained in connection with the alterations.

If the Master Tenant makes any changes or alterations to the Property that constitute more than minor, non-structural modifications, the Master Tenant must, prior to making such changes or alterations, (1) provide 30 days' advance written notice to the applicable Trust setting forth the details of such alterations so that the Trust may effectuate a Transfer Distribution, if necessary, or (2) execute an agreement with the Trust to the effect that, at the end of the term of the Master Lease, the Master Tenant will restore the Property to a condition substantially the same as the condition of the Property at the beginning of the term of the Master Lease.

The Master Tenant Capital Reserve Account and Supplemental Trust Reserve

The Master Lease permits the Master Tenant, in its sole and absolute discretion, to establish a Master Tenant Capital Reserve Account to fund and pay for expenses which the Master Tenant is required to fund pursuant to the terms of the Master Lease. Any funds held in the Master Tenant Capital Reserve Account will belong solely to the Master Tenant, and any funds remaining in the Master Tenant Capital Reserve Account upon termination of the Master Lease will inure to the benefit of the Master Tenant. Separately, the Trust established the Supplemental Trust Reserve to fund Landlord Costs and other ownership-level expenses associated with the Property. Amounts deposited into the Supplemental Trust Reserve are the Trust's funds and may be drawn by the Master Tenant to perform work or pay costs for which the Trust is responsible under the Master Lease, including certain capital improvements with a useful life beyond the term of the Master Lease. The use and availability of all reserve funds are subject to the terms of the Master Lease and any applicable Loan Documents.

Damage or Destruction; Condemnation

In the event of a material casualty to the Property, the Trust bears responsibility for capital improvements that constitute Landlord Costs and for certain costs (i) attributable to the negligence or willful misconduct of the Trust or its agents; (ii) incurred when the Trust or its agents have taken control or possession of the Property; or (iii) incurred after the expiration of the Master Lease (collectively, the "**Trust Costs**"). The Master Tenant is obligated to undertake and complete the restoration of the Property and, subject to the Loan Documents, is entitled to receive and apply available insurance proceeds toward the cost of such restoration. To the extent casualty insurance proceeds are insufficient to complete the repairs, the Master Tenant is required to fund any excess amounts necessary to complete the restoration, other than amounts attributable to Landlord Costs or Trust Costs, which are borne by the Trust. To the extent casualty insurance proceeds exceed the cost to complete the repairs, the Master Tenant is entitled, subject to the Loan Documents then in effect, to retain such excess proceeds, less any amounts attributable to Trust Costs. If a casualty occurs within the last 12 months of the term of the Master Lease and affects more than 50% of the Property, the Master Tenant may elect to terminate the Master Lease and not restore the Property, unless such termination is prohibited by the Loan. If the Master Lease is terminated following a casualty, Rent will be prorated to the date of termination. If some or all of the Property cannot be restored and the Master Lease is not terminated, Additional Rent and Supplemental Rent will be reduced (and the Master Tenant credited for prior overpayments) by an amount reasonably determined by the Trust and the Master Tenant.

Upon a total taking of the Property through a condemnation, the Master Lease will terminate and the Additional Rent will be apportioned and paid to the date of the taking. In the case of a taking of less than all of the Property, the Trust (subject to the Loan Documents) will be entitled to receive the entire award for such taking. Upon a taking of less than all of the Property, the Master Tenant may terminate the Master Lease if the taking renders the remaining portion of the Property unsuitable for the Master Tenant's use or the Master Tenant determines that it cannot complete a restoration for an amount that is less than or equal to the proceeds of the taking; *provided*, *however*, that if there are at least 12 months remaining on the term of the Master Lease, the Trust may agree to pay the excess expenses of restoration and, in turn, the Master Lease will not terminate and the Master Tenant will undertake such restoration. If the Master Lease is not terminated, the Master Tenant must proceed to restore the Property, *provided* that the Trust must make any condemnation award proceeds available to the Master Tenant. If the Master Lease is not terminated and restoration has been undertaken by the Master Tenant, the Additional Rent and Supplemental Rent are required

to be reduced by an amount reasonably determined by the Trust and the Master Tenant commencing from the date of the taking.

Termination Rights

Other than the termination rights discussed above in connection with a casualty or a taking, the Master Lease will terminate in the event that all or substantially all of the underlying Property is sold or transferred by the Trust in one transaction. Such termination will occur immediately after the sale. Further, the Master Lease will automatically terminate upon a foreclosure or dead-in-lieu of foreclosure by the holder of a mortgage.

Assignment and Subletting

The Master Tenant may not sell, assign, transfer, mortgage, pledge or otherwise dispose of the Master Lease or any interest of the Master Tenant in the Master Lease, except with the prior written consent of the Trust. The Master Tenant may sublet the whole or any portion of the Property without the necessity of obtaining the prior consent of the Trust; *provided*, *however*, that no such sublease will be valid unless it complies with the provisions set forth in the Master Lease. An assignment or sublease will not release the Master Tenant from its obligations under its Master Lease. Notwithstanding the foregoing, the Master Lease allows and permits the Master Tenant to enter into sublease arrangements with end-user tenants at the Property.

Subordination Agreement

In connection with the Loan Documents, the Lender required the Trust and the Master Tenant to enter into the Subordination Agreement, pursuant to which the Trust and the Master Tenant subordinated their rights in and to the Master Lease to the Mortgage and provide for collateral assignment to the Lender of all of the underlying leases, rents and occupancy rights. In addition, a default under the Master Lease will constitute a default under the Loan Documents.

Default / Remedies

The Master Tenant will default under the Master Lease, subject to certain applicable cure rights, in the event of: (i) the Master Tenant's failure to pay any monthly installment of Base Rent or Additional Rent (subject to its right to defer payment of Additional Rent and Supplemental Rent; (ii) the Master Tenant's failure to comply with or observe any other term or condition of its Master Lease or any breach of a material representation or warranty made by the Master Tenant; (iii) a taking of the Master Tenant's leasehold interest via execution or other process of law; (iv) the filing of a voluntary petition in bankruptcy by the Master Tenant, the adjudication of its bankruptcy or insolvency, the filing by the Master Tenant of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief or its acquiescence to the appointment of a trustee or a receiver for it; (v) the levy on the Master Lease or any other agreement of the Master Tenant under any attachment or execution; (vi) the institution of a proceeding, or entrance of a final court order, for the Master Tenant's dissolution; or (vii) the Master Tenant makes a general assignment, or takes other action, for the benefit of creditors.

If the Master Tenant defaults under its Master Lease, past all applicable cure periods, the Trust may (i) terminate the Master Lease (with 10 days' notice); (ii) with 10 days' notice, but without terminating the Master Lease, terminate the Master Tenant's right to occupy the underlying Property and re-enter and take possession of the Property; (iii) enter the applicable Property and take any action required of the Master Tenant under the Master Lease, for which the Master Tenant is required to reimburse the Trust for its costs and expenses; (iv) upon termination of the Master Lease, if the Master Tenant has not vacated, treat the Master Tenant as a holdover, month-to-month tenant for which the Master Tenant is required to pay 125% Rent; and (v) exercise all other remedies available at law or in equity.

Indemnification

The Master Tenant will indemnify the Trust, and its officers, directors, Delaware Trustee, employees, and beneficial interest holders, including the Purchasers from claims, damages, losses and expenses, including reasonable attorneys' fees, incurred or asserted against the Trust by reason of the Master Tenant's gross negligence, willful misconduct, fraud, or breach of the Master Lease. The Master Tenant will also indemnify the Trust for any payments it is required to make in respect of any non-recourse carve outs under the Loan Documents, if such payments are caused by: (i) Master Tenant's fraud, willful misconduct or misappropriation, (ii) Master Tenant's commission of a criminal act, (iii) the misapplication of Property funds by the Master Tenant, and (iv) damage or destruction to the Property caused by Master Tenant's gross negligence.

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SUMMARY OF THE TRUST AGREEMENT

General

The Trust is the owner of the Property. The Purchasers will acquire their Interests issued by the Trust subject to the Trust Agreement, and will thereupon become Beneficial Owners of the Trust. The rights and obligations of the Beneficial Owners will be governed by the Trust Agreement.

The following is a summary of some of the significant provisions of the Trust Agreement and of the Springing LLC's Limited Liability Company Operating Agreement. This summary is qualified in its entirety by reference to the full text of such agreements. Each prospective Purchaser should carefully review the Trust Agreement before investing. Unless otherwise noted herein, the Trust Agreement contains materially consistent terms. A copy of the Trust Agreement is attached as **Exhibit B** of this Memorandum.

SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

Purchasers as Beneficial Owners; Trust's Use of Proceeds

Pursuant to this Offering, the Trust is offering Class 1 Beneficial Interests for sale to prospective Purchasers. As Class 1 Beneficial Interests are sold to Purchasers, up to 100% of the Depositor's Class 2 Beneficial Interests will be redeemed by the Trust on a one-for-one basis until the Maximum Offering Amount has been achieved and all Class 1 Beneficial Interests have been sold.

The Trust may and will retain and utilize any net proceeds derived from the offering of Interests to fund any reimbursements, compensation and fees owed to the Sponsor and/or its affiliates in connection with the Offering, including reimbursement of amounts contributed by the Depositor in connection with payment of fees and expenses, as applicable. With regard to the above, the "net proceeds" from the sale of Class 1 Beneficial Interests will be equal to the purchase price of each Class 1 Beneficial Interest, *less* the Sales Commissions, Managing Broker-Dealer Fee and Organization and Offering Expenses allocable to each such sale. *See "Estimated Use of Proceeds" and "Compensation and Fees."*

Term

In addition to the FMV Option, the Trust will terminate upon the first to occur of (i) a sale of the Property or (ii) a Transfer Distribution of the Property. The death, incapacity, dissolution, termination or bankruptcy of the Delaware Trustee, the Manager or any Beneficial Owner will not result in the termination or dissolution of the Trust.

The Delaware Trustee, Independent Trustee and Signatory Trustee

The Delaware Trustee serves the Trust solely to fulfill the Trust's obligations pursuant to Section 3807(a) of the DST Act to have at least one trustee who has its principal place of business in the State of Delaware. The Corporation Trust Company has been appointed as the Delaware Trustee of the Trust.

The Manager has appointed itself as the initial Signatory Trustee of the Trust. The Signatory Trustee is appointed to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative and holds the power, acting alone, to sign documents on behalf of the Trust. The Manager may appoint additional Signatory Trustees and replace any Signatory Trustee subject to the requirements of the Loan Documents.

The Independent Trustee serves the Trust to fulfill the Trust's obligations pursuant to the Loan Documents to have at least one independent trustee. Steven P. Zimmer has been appointed as the Independent Trustee of the Trust.

The Trustees hold the Property in trust for the benefit of the Beneficial Owners. The Trustees only have the limited powers and authority specified in the Trust Agreement. The Trustees will take such actions as may be directed in writing by the Manager, *provided*, *however*, the Trustees are not permitted or required to take any action that is contrary to the Trust Agreement or applicable law. The Trustees have no duty to take any action except as expressly provided for in the Trust Agreement.

The Signatory Trustee will not receive any compensation for its services. The Delaware Trustee and the Independent Trustee will receive nominal compensation for their services under the Trust Agreement and will be reimbursed for out-of-pocket expenses, fees and disbursements, counsel fees and expenses. The Delaware Trustee and the Independent Trustee may resign at any time by giving at least 60 days' prior written notice to the Manager. The Beneficial Owners will indemnify the Delaware Trustee and Independent Trustee for all actions taken on behalf of the

Trust except for any involving willful misconduct, bad faith, fraud or gross negligence of the Delaware Trustee or Independent Trustee, as applicable, in the performance of their duties under the Trust Agreement. The Manager may remove the Delaware Trustee and Independent Trustee at any time, but only for the willful misconduct, bad faith, or fraud or gross negligence of the Trustees in the performance of their duties under the Trust Agreement.

The Manager

FREX Manager Series I LLC, a subsidiary of the Sponsor, will serve as the Manager of the Trust. The Manager will be managed by senior members of the Sponsor's management team, the members of whom are described above. The Manager is also the Signatory Trustee and has the power and authority to manage the limited investment activities and affairs of the Trust as permitted under the Trust Agreement; *provided*, that the Manager has no power to engage on behalf of the Trust in activities in which the Trust could not engage directly, and all of the Manager's power and authority is limited to the extent such powers and authority is materially consistent with the powers and authority conferred upon the trustee in Revenue Ruling 2004-86. The Manager has the primary responsibility for performing the administrative actions set forth in the Trust Agreement, including collecting rents and making distributions. The Manager is authorized to execute and deliver, and cause the Trust to perform its obligations under transaction documents to which the Trust becomes a party. The Manager has the sole and absolute discretion to determine when it is appropriate to sell the Property.

With the exception of the Trust's reimbursement of the Manager for Organization and Offering Expenses, the Manager will receive no compensation for its services under the Trust Agreement. The Manager may resign at any time by giving at least 30 days' prior written notice to the Delaware Trustee. The Trust will indemnify the Manager for all actions taken on behalf of such entities except for any actions it may take that constitute fraud or gross negligence of the Manager. The Manager will not have any liability to any person except for its own fraud or gross negligence. Subject to the next sentence, the Delaware Trustee may either (1) limit the duties of the Manager under the Trust Agreement, or (2) remove the Manager at any time, but only for the fraud or gross negligence of the Manager which causes material damage to, or diminution in value of, the Property. Prior to the Delaware Trustee's removal of the Manager or limitation of the Manager's duties, (a) any such removal or limitation of duties must be done in a manner that is not inconsistent with the terms of the Loan Documents, and (b) any such removal of the Manager will not be effective until the Manager and each of its affiliates have been fully removed from any guarantee and indemnity obligations they may have with respect to the Loan.

Except as expressly provided in the Trust Agreement or other transaction documents contemplated thereby, the Manager does not have any duties or obligations with respect to the Trust, the Trust Agreement or other transactional documents contemplated therein. Notwithstanding the foregoing, following the issuance of a conversion notice, which will occur prior to the initial closing of Class 1 Beneficial Interests, the Delaware Trustee will have no ability to take any action that would cause the Trust to cease to qualify as an investment trust within the meaning of Treasury Regulations Section 301.7701-4(c). The Manager will keep or otherwise engage a third party recordkeeping service provider to manage the customary and appropriate books and records relating to the Trust and the Property.

Power of the Delaware Trustee, the Independent Trustee, and the Manager

The Trust Agreement expressly prohibits the Delaware Trustee, the Independent Trustee, and the Manager from taking a number of actions, including the following: (a) selling, transferring or exchanging the Property except as required or permitted under the Trust Agreement; (b) reinvesting any monies of the Trust, except to make permitted modifications or repairs to the Property or in short-term liquid assets; (c) renegotiating the terms of the Loan or entering into new financing; (d) renegotiating the Master Lease on the Property or entering into new leases, except in the case of the Master Tenant's bankruptcy or insolvency; (e) making modifications to the Property (other than minor non-structural modifications) unless required by law; (f) accepting any capital from a Beneficial Owner (other than capital from a Purchaser that will be used to pay the fees, costs and expenses of the offer and sale of the Class 1 Beneficial Interests, fund initial reserves or repurchase up to 100% of the Depositor's Class 2 Beneficial Interests and thereby reduce the Depositor's ownership interest in the Trust, as discussed above); or (g) taking any other action that in the reasoned opinion of Tax Counsel to the Trust should cause the Trust to be treated as a business entity for federal income tax purposes if the effect would be that such action or actions would constitute a power under the Trust Agreement to "vary the investment of the certificate holders" under applicable tax law.

As a result, the Trust may be required to effectuate a Transfer Distribution in order to take any of the above actions which may be necessary, in the Manager's sole and absolute discretion, to preserve and protect the Property. While the Property will remain subject to the Loan after any such Transfer Distribution, the Beneficial Owners will

no longer be considered to own, for federal income tax purposes, a direct ownership interest in the Property. Instead, the Beneficial Owners will become members in a Springing LLC, which will then own the Property. The Manager (or an affiliate of the Manager), will be the manager of the Springing LLC. *See "Summary of Certain Provisions of the "Springing LLC" Limited Liability Company Operating Agreement"* below.

Transfer Rights

The Beneficial Owners' right to transfer or assign their Interests is subject to Section 6.4 of the Trust Agreement. With the exception of Permitted Transfers (as defined in the Trust Agreement), any transfer, pledge, encumbrance or assignment of some or all of a Class 1 Beneficial Owner's Interests issued by the Trust will be conditioned upon the prior written consent of the Manager, which may be withheld in the Manager's sole and absolute discretion. Any sale or conveyance of any Class 1 Beneficial Interest that fails to comply with this provision will be null, void and ineffectual, and will not bind the Trust or any other Beneficial Owners with respect to a purported transferee. In the event of any breach of Section 6.4 of the Trust, the Beneficial Owner engaging in or attempting any action prohibited by the foregoing will indemnify, defend, and hold harmless the Manager and its affiliates from and against any losses, liabilities, claims, costs, and expenses (including legal fees) incurred in connection with curing, unwinding, or otherwise addressing any compliance obligations or adverse consequences arising from such prohibited assignment, transfer, pledge, or encumbrance under the Trust Agreement or the Loan Documents. The Manager may also take any reasonable action, in its sole and absolute discretion, to remedy or rectify the effects of such prohibited action. Any transferee will take such Interest subject to the Trust Agreement, and will become a Beneficial Owner only upon written acceptance and adoption of the Trust Agreement. Each Beneficial Owner will be responsible for compliance with applicable securities laws with respect to any sale of his or her Interest.

Waivers

Except as expressly provided in the Trust Agreement, no Beneficial Owner (i) has an interest in the Property or (ii) will have any right to demand and receive from the Trust an in-kind distribution of the Property or any portion thereof. Each Beneficial Owner expressly waives any right, if any, under the DST Act to seek a judicial dissolution of the Trust, to terminate the Trust or, to the fullest extent permit by law, to partition the Property. In addition, each Beneficial Owner expressly waives any right, to the fullest extent permitted by law, to file a petition in bankruptcy on behalf of the Trust or take any action that consents to, aides, supports, solicits or otherwise cooperates in the filing of an involuntary bankruptcy proceeding involving the Trust.

Distributions

The Manager will distribute all available cash to the Beneficial Owners on a monthly basis, after paying or reimbursing the Manager for any reasonable fees or expenses paid by the Manager on behalf of the Trust (including, but not limited to, all compensation due to the Manager or its affiliates for reasonably documented services enumerated in the Trust Agreement, which will include, but not be limited to, ratable salary, bonus and fringe benefits of the personnel performing such services) and reserving and retaining such additional amounts as the Manager determines are necessary to pay anticipated ordinary current and future Trust expenses (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses). The Trust's reserves, to the extent they are controlled by the Trust, will be invested by the Manager only in short-term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof and in certificates of deposit or interest-bearing bank accounts of banks or trust companies. The Manager will furnish periodic reports to the Beneficial Owners as to the receipts, expenses and reserves of the Trust.

Termination of the Trust to Protect the Property; Transfer Distribution

Regarding the Trust, if the Manager determines that (i) all or any portion of the Trust Estate is in jeopardy of being lost due to any reason, (ii) the Purchasers are at risk of losing all or a substantial portion of their investment in their Beneficial Interests, or (iii) it needs to take a prohibited action as detailed in the Trust Agreement, then the Manager may elect to either (x) to the extent the foregoing circumstances apply to all of the assets comprising the Trust Estate, transfer title to all of the assets comprising the Trust Estate, or convert to a Springing LLC, or (y) to the extent the foregoing circumstances apply to less than all of the Trust Estate, the Manager will distribute the interests issued by the Trust to the Beneficial Owners in partial liquidation of the Trust.

If the Manager determines that (a) the Master Tenant is insolvent or has failed to timely pay the full rent due under the Master Lease after the expiration of any applicable notice and cure provisions in the Master Lease (not including any permitted deferral of rent due pursuant to Section 4.2 of the Master Lease), (b) the Master Tenant files

for bankruptcy, seeks appointment of a receiver, makes an assignment for the benefit of its creditors or there occurs any similar event, (c) the Trust is otherwise terminated in violation of Section 3.3(c) of the Trust Agreement, or (d) the Manager needs to take, but is precluded from taking, one of the actions enumerated in Section 3.3(c) of the Trust Agreement and the Manager determines in writing that dissolution of the Trust is necessary and appropriate to preserve and protect the Trust Estate for the benefit of the Beneficial Owners, then, in any such case, the Manager will transfer title to the assets comprising the Trust Estate to a Springing LLC, a newly-formed Delaware limited liability company that has a limited liability company operating agreement substantially similar to the form thereof attached to the Trust Agreement (which are included in **Exhibit B** to this Memorandum). If the Trust is terminated pursuant to a Transfer Distribution, the Manager will cause the membership interests in the Springing LLC to be distributed to all Beneficial Owners of the Trust in proportion to their ownership interests immediately prior to the dissolution of the Trust, in complete satisfaction of their Interests and their beneficial ownership certificates, in order to consummate the dissolution. Under such circumstances, the Beneficial Owners will become members in a Springing LLC and the Manager of the Trust or an entity controlled by the Manager of the Trust will become the manager of such Springing LLC.

If a determination has been made to make a Transfer Distribution, the Manager may, in its sole and absolute discretion and upon advice of counsel, utilize such other form of transaction (including, without limitation, a conversion of the Trust into a limited liability company if then permitted by applicable law) to accomplish the transaction contemplated by the Manager pursuant to the Transfer Distribution (which other form of transaction will only require the approval of the Manager and will not require the approval of any Beneficial Owners or the Trustees), provided that such alternative form of transaction is entered into to preserve and protect the Trust Estate for the benefit of the Beneficial Owners and is otherwise in compliance with the DST Act. See below "*Summary of Certain Provisions of "Springing LLC" Limited Liability Company Operating Agreement*."

Sale of the Property

Pursuant to Section 3806(b)(3) of the DST Act, the Manager will sell the Trust Estate upon its determination (in its sole and absolute discretion) that a sale of the Trust Estate is appropriate. However, absent unusual circumstances, it is anticipated that the Trust will hold the Trust Estate for at least two years. Any such sale of the Trust Estate will occur as soon as practicable after the Manager has determined that the sale of the Trust Estate is appropriate and in such manner as the Manager determines to be in the best interests of the Trust. The Manager will be responsible for (i) determining the fair market value of the Property, (ii) providing notice to the Trustees of the sale of the Trust Estate and (iii) conducting the sale of the Trust Estate on behalf of the Trust under commercially reasonable terms and executing such documents and instruments required to be executed by the Trust to affect such sale (the Manager will also provide to the Trustees in execution form any documents and instruments required to be executed by the Trustees to affect such sale). The Manager (and the Trustees, if necessary) will take all reasonable action that would seek to enable the sale to qualify, with respect to each Beneficial Owner, as a like-kind exchange within the meaning of Code Section 1031. After paying all amounts due to the Trustees and the Lender, if any, the Manager will distribute the balance of the proceeds (net of any closing costs payable by the Trust including any fee due to the Manager) to the Beneficial Owners. The Manager will receive a fee from the Trust equal to 2.5% of the gross proceeds of such sale of the Trust Estate to a third party. *See "Summary of Asset Management Agreement."*

FMV Option

The Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more Exchange Entities for cash. The Cash Value will equal the then fair market value of such Beneficial Owner's whose Interests are acquired for cash as of the date the FMV Option is exercised, *less*, solely with respect to such Beneficial Owner, the Cash Redemption Fee, which Cash Redemption Fee will be remitted to the Manager; *provided*, *however*, that the Manager may reallow a portion of such Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. The foregoing notwithstanding, the Option Holder may alternatively present each Beneficial Owner the option but not the obligation to receive Units of an equal aggregate value to the Cash Value of such Beneficial Owner's Interests, as of the date the FMV Option is exercised (in lieu of the Cash Value), in each case pursuant to an Exchange intended to qualify as a tax-deferred exchange under Code Section 721. Any such election by a Beneficial Owner to receive either the Cash Value or Units will apply to all of such Beneficial Owner's Interests subject to the FMV Option, and no Beneficial Owner may elect to receive cash with respect to a portion of its Interests and Units with respect to the remainder. For

the avoidance of doubt, no Cash Redemption Fee will be charged, imposed, or deducted in connection with any Exchange in which a Beneficial Owner chooses to receive Units in lieu of cash, and the value of such Units will be determined without regard to the Cash Redemption Fee. For the avoidance of doubt, if the Option Holder offers Beneficial Owners the opportunity to exchange their Interests for Units in connection with the exercise of the FMV Option, such Exchange will always be at the option of each Beneficial Owner, and in no event will Beneficial Owners be required to exchange their Interests for Units.

In order to exercise the FMV Option, the Option Holder will provide each Beneficial Owner with a Notice of Exchange, the form of which is attached as an exhibit to the Trust Agreement. If a Beneficial Owner elects to have the Option Holder exchange the Beneficial Owner's Interests issued by the Trust for Units, such Beneficial Owner will be required to notify the Option Holder in writing within 20 Business Days (as defined in the Trust Agreement) after the date on which the Option Holder mails the Unit Notice. If such Beneficial Owner does not provide a Unit Notice to the Option Holder within 20 Business Days after the mailing date of the Notice of Exchange, such Beneficial Owner will be deemed to have irrevocably elected to receive cash consideration pursuant to the exercise of the FMV Option contained in the Trust Agreement.

The fair market value of a Beneficial Owner's Interests will be determined by multiplying: (i) the Beneficial Owner's percentage of Interests issued by the Trust, by (ii) the fair market value of the Property, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion; *provided*, that such appraisal shall have been completed within 60 days of the date the FMV Option is exercised. If a Beneficial Owner does not so elect to have its Interests purchased for Units, it will receive cash in an amount equal to the Cash Value, based upon the then-fair market value of the Beneficial Owner's Interests issued by the Trust. For the avoidance of doubt, each Beneficial Owner's election to receive the Units (or receive Cash Value) will be made individually and independently of the elections of other Beneficial Owners.

Should the Option Holder exercise the FMV Option, any Purchaser who receives Units or cash in exchange for their Interests will no longer have a direct interest in the Trust. If a Purchaser becomes a holder of Units, such Units will be subject to the terms of the Exchange Entity's Operating Agreement. In addition, if and after the FMV Option is exercised, a Purchaser will generally not be able to engage in a subsequent, individual Section 1031 Exchange.

Each Beneficial Owner will be required to execute such documents and signatures as the Option Holder may reasonably require in connection with the purchase of such Beneficial Owner's Interests for cash or exchange of such Beneficial Owner's Interests for Units, in each case as described above. Upon the Receipt Date, the Option Holder will distribute cash (*less* the Cash Redemption Fee, if applicable) or Units to any Beneficial Owner, in each case within 80 Business Days of the Receipt Date. *See "Summary of the Trust Agreement."*

Restriction of Certain Rights

Beneficiaries of a DST have rights to certain information from the Trust under the DST Act. In prior investment programs, small minority investors have attempted to use certain of these statutory information rights to seek to 'greenmail' the Trust and to otherwise adversely affect the interests of legitimate investors in the investment program. Therefore, the Sponsor has determined it to be in the best interest of the program to eliminate the statutory information rights in favor of the following:

- The Manager will furnish periodic reports to investors regarding rent received from the Master Tenant, Trust expenses, the amount of Trust reserves and the amount of distributions made by the Trust to Beneficial Owners;
- Beneficial Owners may, on written demand to the Manager, once a quarter, receive a copy of the Trust Agreement (with all Beneficial Owner identifying information redacted) and a copy of the Certificate of Trust; and
- Beneficial Owners have no further informational rights, including no right to receive any list of the other Beneficial Owners or any of their contact information.

In addition, the Trust Agreement eliminates certain liabilities and duties of the Manager otherwise obtaining under applicable law, and limits such liabilities and duties to those except as expressly set forth in the Trust Agreement; *provided*, *however*, no provision in the Trust Agreement is intended to or will operate to eliminate the implied covenant of good faith and fair dealing.

Tax Status of the Trust

The Trust Agreement provides that the Trust is intended to qualify as an "investment trust" and a "grantor trust" for federal income tax purposes, and not as a partnership or other business entity. Thus, although the Trust is respected as a separate entity for state law purposes, each Purchaser should be treated as owning a direct interest in the Property for purposes of Code Section 1031. *See "Federal Income Tax Consequences."* Each Purchaser will be required to report its Interests issued by the Trust in a manner that is consistent with the foregoing.

SUMMARY OF CERTAIN PROVISIONS OF "SPRINGING LLC" LIMITED LIABILITY COMPANY OPERATING AGREEMENT

The following is a summary of some of the more significant provisions of the Limited Liability Company Operating Agreement of a Springing LLC (each, a "**Springing LLC Operating Agreement**") to be entered into upon a Transfer Distribution. A form of a Springing LLC Operating Agreement is attached to the Trust Agreement (which is included in **Exhibit B** to this Memorandum) and should be referred to for a complete statement of the rights and obligations of its members. The following is merely a summary of the terms of a Springing LLC Operating Agreement and is qualified in its entirety by the full text thereof. Prospective Purchasers should carefully review the Springing LLC Operating Agreement before subscribing for Interests.

Management. The Manager or its affiliate will become the manager of the Springing LLC upon a Transfer Distribution. The manager of the Springing LLC will have exclusive discretion in the management and control of the business and affairs of the Springing LLC. The Springing LLC Operating Agreement will grant to the manager broad authority in the exercise of the management and control of the Springing LLC. The manager of the Springing LLC will have complete power to do all things necessary or incident to the management and conduct of the Springing LLC's business.

Rights of the Members of the Springing LLC. The Beneficial Owners will become members (each, a "**Member**") in the Springing LLC. The members of the Springing LLC will not have the right to take part in the management or control of the business or affairs of the Springing LLC, to transact any business for the Springing LLC, or to sign for or bind the Springing LLC. The members, however, will have the right to receive information required for federal income tax reporting and certain other financial information and to inspect certain records of the Springing LLC. Upon the requisite vote of the members, the members will have the right to: (i) amend the Springing LLC Operating Agreement, subject to certain limitations specified in the Springing LLC Operating Agreement, with the consent of the manager, (ii) remove the manager for cause (as defined in the Springing LLC Operating Agreement), (iii) elect a successor manager, with the consent of the manager, (iv) elect a successor tax matters partner, with the consent of the manager, and (v) elect to continue the Springing LLC after a dissolution event, with the consent of the manager. The exercise of the foregoing specific rights will require the affirmative vote of the owners of record of more than 50% of the membership interests held by members in each case.

FMV Option. The Option Holder may offer the Members the opportunity to sell their Units to one or more Exchange Entities (the "**Springing LLC FMV Option**") for cash. The purchase price payable in cash to any Member whose Units are acquired for cash (the "**Springing LLC Cash Value**") will equal the then fair market value of such Member's Units as of the date the Springing LLC FMV Option is exercised, *less*, solely with respect to such Beneficial Owner, a 2.5% Cash Redemption Fee, which will be remitted to the Manager; *provided*, *however*, that the Manager may reallow a portion of such Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated disposition of Units pursuant to the Springing LLC FMV Option, the Members have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Springing LLC. The foregoing notwithstanding, the Option Holder may alternatively present each Member the option but not the obligation to receive membership interests issued by one or more Exchange Entities ("**EE Units**") of an equal aggregate value to the Springing LLC Cash Value of such Member's Units, as of the date the Springing LLC FMV Option is exercised (in lieu of the Springing LLC Cash Value), in an Exchange intended to qualify as a tax-deferred exchange under Code Section 721. For the avoidance of doubt, no Cash Redemption Fee will be charged, imposed, or deducted in connection with any Exchange in which a Member receives EE Units in lieu of cash, and the value of such EE Units will be determined without regard to the Cash Redemption Fee.

In order to exercise the Springing LLC FMV Option, the Option Holder will provide each Member with a Notice of Exchange, the form of which is attached as an exhibit to the Springing LLC Operating Agreement. If the Member elects to have the Option Holder exchange a Member's Units in the Springing LLC for EE Units, such

Member will be required to notify the Option Holder in writing within 20 Business Days after the date on which the Option Holder mails the Notice of Exchange to the Member (the "**Unit Notice**"). If such Member does not provide a Unit Notice to the Option Holder within 20 Business Days after the mailing date of the Notice of Exchange, the Member will be deemed to have irrevocably elected to receive cash consideration pursuant to the exercise of the FMV Option contained in the Springing LLC Operating Agreement. For the avoidance of doubt, each Member's election to receive the EE Units (or receive the Springing LLC Cash Value) will be made individually and independently of the elections of other Members. Further, if the Option Holder offers Beneficial Owners the opportunity to exchange their Units for EE Units in connection with the exercise of the Springing LLC FMV Option, such Exchange will always be at the option of each Member, and in no event will Members be required to exchange their Units for EE Units.

The fair market value of a Member's Units will be determined by multiplying: (i) the Member's percentage of Units issued by the Springing LLC, by (ii) the fair market value of the Property, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion; *provided*, that such appraisal shall have been completed within 60 days of the date the Springing LLC FMV Option is exercised. No discounts for lack of liquidity or minority interests will be considered in determining the value of the membership interests in the Springing LLC. If a Member does not so elect to have its Units purchased for EE Units, it will receive cash in an amount equal to the Springing LLC Cash Value, based upon the then-fair market value of the Member's Units issued by the Springing LLC.

Each Member will be required to execute such documents and signatures as the Option Holder may reasonably require in connection with the exercise of the Springing LLC FMV Option or the cash purchase, described above. Upon receipt of any and all documents and signatures required by the Option Holder, (the date of final receipt, the "**Receipt Date**"), the Option Holder will distribute to any Member, in each case, cash (*less* the Cash Redemption Fee, if applicable) or Units within 80 Business Days of the Receipt Date.

Should the Option Holder exercise the FMV Option, any Member who receives EE Units or cash in exchange for their Units will no longer have a direct interest in the Springing LLC. If a Member becomes a holder of EE Units, such EE Units will be subject to the terms of the Exchange Entity's Operating Agreement. *See "Summary of the Trust Agreement."*

Limited Liability. Except as described below, no member or manager will be liable for the Springing LLC's debts or other obligations, except to the extent of such member or manager's share of undistributed profits, if any, and the amount of any distributions made to such member or manager by the Springing LLC constituting a return of such member or manager's capital contribution, unless such member or manager takes part in the control of the Springing LLC's business, which is not permitted under the Springing LLC Operating Agreement.

Transfer of Membership Interests. No transfer of a membership interest in the Springing LLC may be made unless the manager of the Springing LLC, in its sole and absolute discretion, has consented to such transfer. In addition, no transfer may be made if the effect of such transfer would be for the Springing LLC to be classified as a publicly traded limited partnership for federal income tax purposes. Further, no assignment of any membership interest may be made if the membership interests to be assigned, when added to the total of all other membership interests assigned within the 13 immediately preceding months, would, in the opinion of counsel for the Springing LLC, result in the termination of the Springing LLC under the Code. The manager may require an opinion of counsel that is acceptable to the manager that such transfer will not violate any federal or state securities laws or any provisions of any underlying loan agreements, as applicable. A person to whom a transfer is to be made will not become a substituted member in the Springing LLC unless (i) the manager, in its sole and absolute discretion, has consented to such substitution, (ii) the person to whom the transfer is to be made has assumed any and all of the obligations under the Springing LLC Operating Agreement with respect to the membership interests to which the transfer relates, (iii) all reasonable expenses required in connection with the transfer have been paid by or for the account of the person to whom the transfer is to be made, and (iv) all agreements, certificates or amended certificates and all other documents have been executed and filed and all other acts have been performed which the manager deems necessary to make the person to whom the transfer is to be made a substituted member in the Springing LLC and to preserve the Springing LLC's status.

Additional Voluntary Capital Contributions. The manager may request at any time that the members make additional capital contributions to the Springing LLC on a *pro rata* basis in proportion to each member's membership interest. The members are not required to comply with any such request. The manager will adjust the members' capital contributions and membership interests to equitably reflect any additional capital contributions made by members.

Termination and Winding Up. The Springing LLC will be dissolved upon the occurrence of any of the following events:

(i) The manager of the Springing LLC determines to terminate the Springing LLC;
(ii) The sale, exchange or other disposition of the Property;
(iii) The occurrence of any event of dissolution in the Springing LLC's Certificate of Formation; or
(iv) The death, insanity, withdrawal, retirement, resignation, expulsion, insolvency or dissolution of the manager unless members holding more than 50% of the membership units of the Springing LLC consent to continue the business of the Springing LLC.

The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of a member will not cause the termination or dissolution of the Springing LLC and the business of the Springing LLC will continue.

In the event of the Springing LLC's dissolution, (a) the Springing LLC's affairs will be terminated and wound up, (b) an accounting will be made, (c) the Springing LLC's liabilities will be paid or adequately provided for, (d) a reserve will be established to satisfy any legal requirements, and (e) the Springing LLC's remaining assets will be distributed to the members as provided for in proportion to their membership interests.

Meetings and Voting. A meeting of the members may be called at any time by the manager. The manager will call for a meeting following receipt of a written request of members holding more than 10% of the membership units of the Springing LLC. At a meeting of the members, the presence of members holding more than 50% of the membership interests, in person or by proxy, will constitute a quorum. A member may vote either in person or by written proxy signed by the member or by its duly authorized attorney in fact. Certain matters that require the action and implementation of the manager require the majority approval of the members. Persons present by telephone will be deemed to be present "in person" for purposes thereof. Matters may also be brought on for action and implemented by the manager by Majority Vote (as defined in the Springing LLC operating agreement).

However, notwithstanding these provisions, as long as the Loan is outstanding, the members will be conclusively deemed to have elected to continue the existence of the Springing LLC.

Removal or Withdrawal of Manager and Election of Successor Manager. The manager of the Springing LLC can be removed and its successor chosen by the members holding, in aggregate, more than 50% of the membership interests. However, at any time the Loan is outstanding, consent of the Lender will also be required for removal of the manager and appointment of a successor manager.

Fees and Compensation to the Manager and its Affiliates. The manager of the Springing LLC, its affiliates, and affiliates of officers of the manager will be entitled to receive an administrative fee and additional compensation (including expense reimbursements, and, in the case of affiliates of the manager or officers of the manager, compensation from services provided pursuant to a contract between any such affiliate and the manager) for any additional service performed on behalf of the Springing LLC equal to the then-prevailing market rates for similar services performed in the area where the underlying Property is located. In addition, the manager will be entitled to receive a financing fee up to one percent of the gross proceeds from any financing of the Property, and a disposition fee up to two and one half percent of the gross price of the Property upon its sale, exchange or other disposition (and any sales commissions or mortgage brokerage fees due to outside brokers will not be paid from these fees); *provided*, *however*, that no such disposition fee will be charged in connection with any transaction for which the Manager or its affiliates receive a Cash Redemption Fee; *provided*, *further*, that the Manager may reallow a portion of such disposition fee to one or more third parties in its sole and absolute discretion; *provided*, *finally*, that no amounts constituting a disposition fee hereunder will be charged unless and until, at the time of the contemplated disposition, the Members of the Springing LLC have received a 1.0x multiple on invested capital (including cashflow) in connection with their participation in the Springing LLC.

Books and Records. The Springing LLC Operating Agreement will require the manager to distribute to each member, promptly following the close of the Springing LLC's fiscal year on December 31, annual information necessary for tax purposes.

Indemnification. Subject to certain conditions, the Springing LLC will indemnify the manager against certain claims or lawsuits arising out of the Springing LLC's activities or operations.

Power of Attorney. The manager of the Springing LLC will not be liable to any member of the Springing LLC or to the Springing LLC for honest mistakes of judgment, or for action or inaction, taken reasonably and in good faith for a purpose that was reasonably believed to be in the best interests of the Springing LLC, or for losses due to

such mistakes, action or inaction, or for the negligence, dishonesty or bad faith of any employee, broker or other agent of the Springing LLC. However, this provision will not relieve the manager from liability attributable to gross negligence, willful misconduct or intentional wrongdoing or to the extent (but only to the extent) that such liability may not be waived, modified or limited under applicable law.

Restriction of Information Rights. The rights of members of the Springing LLC to information may be restricted similarly to how the rights of Beneficial Owners have been restricted as summarized above.

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SUMMARY OF THE PROPERTY MANAGEMENT AGREEMENT

The Property Manager and the Master Tenant entered into the Property Management Agreement with respect to the Property. The Property Management Agreement governs the rights and obligations regarding the management of the Property and the compensation to be paid to the Property Manager, which as of the date hereof is GREP Atlantic, LLC, a Delaware limited liability company.

The following is a summary of some of the significant provisions of the Property Management Agreement. This summary is qualified in its entirety by reference to the full text of the agreement, a copy of which is attached as **Exhibit D** of this Memorandum.

Term	The Property Management Agreement will continue at all times Master Tenant leases the Property pursuant to the Master Lease unless sooner terminated in accordance with the terms of the Property Management Agreement.
Rights and Duties of the Property Manager	In general, the Property Manager will manage, operate and maintain the Property and will manage the performance of everything reasonably necessary for the proper operation of the Property.
Compensation	Property Management Fee The monthly Property Management Fee will be an amount equal to the greater of $10,000 or 3% of the Effective Gross Revenues from the Property. Additionally, the Master Tenant may, in its discretion, elect to award the Property Manager with a performance-based incentive fee based on revenue-based or other gross operational metrics in such amount(s) as the Master Tenant may determine.
Indemnification	The Master Tenant will defend, indemnify, and hold the Property Manager, its affiliates, and each of their respective officers, directors, managers, representatives, agents, principals, equity owners, contractors, subcontractors, insurers and employees, and their respective successors and assigns harmless from and against any and all third-party claims to the extent attributable to or resulting in any way from (i) Property Manager's services as the Property Manager; (ii) in connection with the ownership, maintenance, or operation of the Property; (iii) actions taken by the Property Manager at the written direction of Master Tenant; (iv) a breach of the Property Management Agreement by the Master Tenant; or (v) the sublease agreements or other housing statutes. The Property Manager will defend, indemnify, and hold harmless the Master Tenant, its affiliates, and each of their respective officers, directors, managers, representatives, agents, principals, equity owners, contractors, insurers, employees, and their respective successors and assigns from and against any and all damages alleged by third parties in any way arising out of or to the extent attributable to: (a) willful misconduct, bad faith, or gross negligence, in each case on the part of the Property Manager, or otherwise as a result of intentional actions or occurrences of the Property Manager, its agents or employees that are beyond the scope of the Property Manager's authority.
Budget	The Property Manager will prepare and deliver each year to the Master Tenant an annual operating budget for the Property for the Master Tenant's approval.

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SUMMARY OF THE CONSTRUCTION MANAGEMENT AGREEMENT

The Master Tenant and DST Holdings entered into the Construction Management Agreement with respect to the Property. The Construction Management Agreement governs the rights and obligations regarding any construction services with respect to the Property and the compensation to be paid to DST Holdings for such services.

The following is a summary of some of the significant provisions of the Construction Management Agreement. This summary is qualified in its entirety by reference to the full text of the agreement, a copy of which is attached as **Exhibit E** of this Memorandum.

Term	Unless otherwise terminated pursuant to its terms, the Construction Management Agreement will terminate on the earliest of (i) the date that the Master Lease is terminated or expires; (ii) upon a foreclosure or dead-in-lieu of foreclosure with respect to the Property by the applicable lender; and (iii) at any time that the Property is sold by the Trust to a third party.
Rights and Duties of DST Holdings[1]	In general, DST Holdings will provide construction management services to the Master Tenant with respect to the Property and negotiate for certain renovations of the Property in connection with the Master Tenant's duties and obligations under the Master Lease.
Compensation	The Construction Management Fee payable to DST Holdings will be an amount equal to the greater of (i) 5%, and (ii) such other market-accepted percentage for parties engaging on arm's-length terms of the construction costs determined, on a project-by-project basis with respect to the construction management activities being performed thereunder.
Indemnification	The Master Tenant will indemnify, defend, and save DST Holdings, its principals, representatives, and employees, harmless from and against all claims asserted and losses sustained by reason of its obligations or performance under the Construction Management Agreement. DST Holdings will indemnify, defend and hold harmless the Master Tenant and its agents and employees from and against all claims, liabilities, losses, damages, and/or expenses arising out of the willful misconduct, bad faith, fraud or gross negligence on the part of DST Holdings, its agents, or employees in the performance of their duties under the Construction Management Agreement.

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[1] DST Holdings may, in its sole discretion, subcontract all or any portion of the construction management services to its affiliates or third parties. DST Holdings will not be responsible for any construction defects or defaults arising in connection with the engagement of any contractors or subcontractors under the Construction Management Agreement. DST Holdings will act solely in a supervisory capacity by overseeing any contractors or subcontractors engaged with respect to work on the Property, and DST Holdings will not be required to obtain or maintain a license as a contractor in connection with the Construction Management Agreement.

SUMMARY OF THE INVESTOR QUESTIONNAIRE & PURCHASE AGREEMENT

General

Each prospective Purchaser must execute an Investor Questionnaire & Purchase Agreement (a "**Purchase Agreement**"). Prospective Purchasers should review the entire Purchase Agreement with their own independent legal counsel before submitting an offer to buy an Interest. The following is merely a summary of some of the significant provisions of the Purchase Agreement, and is qualified in its entirety by the full text thereof, a copy of which is attached to this Memorandum as **Exhibit G**.

Submission of Offer to Purchase

A summary of the procedures for the offer and purchase of an Interest is set forth under *"Method of Purchase."*

Closing

Prior to closing, each prospective Purchaser is required to deliver to the Trust (i) the Purchase Agreement, and (ii) such other documents as may reasonably be requested by the Trust or its agents. At the Closing of its purchase of an Interest, each Purchaser will receive an Interest in the Trust.

Limited Representations

The Trust provides limited representations or warranties in the Purchase Agreement, including with respect to the ownership and condition of the Property. Consequently, each Purchaser must rely on its own investigations and analysis of the Property and is encouraged to seek the advice of its own independent legal counsel, accountants, and real estate advisors. Each prospective Purchaser will be required to acknowledge that the Trust, the Sponsor, and their affiliates make no representation or warranty of any kind regarding the suitability of an investment in the Interests by a prospective Purchaser. Further, each prospective Purchaser acknowledges and agrees that it has not relied upon any investment advice or recommendation of the Trust, the Sponsor, or any of their affiliates as a basis for the decision to invest in the Interests.

Indemnity

The Purchase Agreement contains an indemnity provision whereby each Purchaser will be required to indemnify, defend and hold the Trust, the Sponsor and their affiliates harmless from any and all damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees and costs) that they may incur by reason of the untruth or inaccuracy of any of the representations, warranties, covenants or agreements contained in the Purchase Agreement or in any other document the Purchaser has furnished to them.

No Tax Advice

Purchasers also will acquire their Interests without any representations from the Trust, the Sponsor, the Depositor or the Manager regarding tax implications of the transaction. The Trust received an opinion of Tax Counsel on which each Purchaser may rely, but only concerning the matters specifically addressed therein. Notwithstanding the preceding sentence, the opinion of Tax Counsel is not intended or written to be used, and it cannot be used, by any Purchaser for the purpose of avoiding penalties that may be imposed under the Code. The Tax Opinion was written to support the promotion or marketing of a particular transaction, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor. A copy of the Tax Opinion is attached to this Memorandum as **Exhibit F**.

Each Purchaser should consult its own independent legal counsel and other tax advisors regarding the tax implications of an investment in an Interest, including whether or not such investment will qualify for deferral of gain under Code Section 1031, if so contemplated. *See "Federal Income Tax Consequences"* below.

Dispute Resolution

Each Purchaser agrees that any dispute arising out of the Purchase Agreement must be brought in a court of competent jurisdiction located in New York County, New York, and voluntarily waives any right he, she or it may have to a jury trial in such proceeding. If any legal action or other proceeding is brought by a Beneficial Owner for the enforcement of the Offering Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of the Offering Documents, the successful or prevailing party or parties will be entitled

to recover from the non-prevailing party, attorneys' fees, court costs, and all costs and expenses incurred in that action or proceeding in addition to any or all other relief awarded in such legal action or proceeding.

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SUMMARY OF ASSET MANAGEMENT AGREEMENT

Concurrently with the acquisition of the Property, the Manager and the Trust entered into the Asset Management Agreement with respect to the Property. The Asset Management Agreement will govern the rights and obligations regarding the management services provided with respect to the Property as well as oversight of the Property Manager.

The following is a summary of some of the significant provisions of the Asset Management Agreement. This summary is qualified in its entirety by reference to the full text of the agreements. A copy of the Asset Management Agreement is attached as **Exhibit C** of this Memorandum.

***Term**:*	The Asset Management Agreement commenced on the date of the Acquisition and will continue until termination by one of the parties.
Rights and Duties of the Manager	In general, the Manager will provide asset management services to the Trust with respect to the Property, will arrange for financing of the Property, implement all decisions and policies of the Trust and will oversee and supervise the provision of services by the Property Manager to ensure that the Property Manager is performing in a manner consistent with the terms of the Property Management Agreement. The Manager retains the right to appoint an affiliate in connection with its provision of asset management services under the Asset Management Agreement.
Compensation	<u>Reimbursements</u> The Trust shall reimburse the Manager for all reasonable, out-of-pocket expenses (including reasonable travel and incidental costs) incurred by the Manager in performing its services under the Asset Management Agreement; *provided* that the same are reflected in a budget provided by the Property Manager or provided by the Manager and approved by the Trust, or as may otherwise be approved by the Trust. <u>Asset Management Fee</u> As compensation for its asset management services, the Manager will receive an annual fee in an amount up to 1% of the Trust's effective gross revenue. The Manager may waive or defer the Asset Management Fee charged to Purchasers, in whole or in part, in the Manager's sole and absolute discretion. In addition, the Manager will be reimbursed for its reasonable expenses. The Asset Management Fee will be paid on a *pro rata* basis, monthly in arrears. If the Asset Management Agreement is terminated during any calendar year, the Asset Management Fee owed thereunder will be prorated for such partial year. The Asset Management Fees payable to the Manager will be payable solely by the Trust out of the income it receives from the Property. The Asset Management Fee is subordinate in all respects in lien and payment to the lien and payment of the Loan. <u>Acquisition Fee</u> In connection with the Acquisition, the Manager accrued the benefit of receiving the Acquisition Fee from the Trust in an amount up to 1.5% of the aggregate purchase price paid by the Trust to acquire the Property. <u>Financing Fee</u> In connection with the Acquisition, the Manager earned a Financing Fee in an amount up to 0% of the gross proceeds of the Loan evidenced by the Loan Documents.

Disposition Fee

The Manager will receive a Disposition Fee from the Trust in an amount up to 2.5% of the gross proceeds of any sale of the Property to a third party; *provided*, *however*, that no Disposition Fee will be charged in connection with any transaction for which the Manager or its affiliates receive a Cash Redemption Fee; *provided*, *further*, that the Manager may reallow a portion of the Disposition Fee to one or more third parties in its sole and absolute discretion; *provided*, *finally*, that no amounts constituting a Disposition Fee will be charged unless and until, at the time of the contemplated disposition, the Beneficial Owners of the Trust have received a 1.0x multiple on invested capital (including cashflow) in connection with their participation in the Trust.

Indemnification

The Trust will hold the Manager harmless from claims arising directly or indirectly out of any action taken by the Manager within the scope of its authority, excluding only those liabilities which arise as a result of the willful misconduct, bad faith, fraud or gross negligence of the Manager in the performance of its duties under the Asset Management Agreement. This indemnity extends to and protects the agents, officers, directors, shareholders, affiliated companies and employees of the Manager.

The Manager will agree to indemnify the Trust and hold it harmless from all claims arising directly or indirectly out of any action taken by the Manager that is not within the scope of its authority under the Asset Management Agreement and constitutes the willful misconduct, bad faith, fraud or gross negligence of the Manager in the performance of its duties under this Asset Management Agreement. This indemnity extends to and protects the agents, officers, directors, shareholders, affiliated companies and employees of the Trust.

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FEDERAL INCOME TAX CONSEQUENCES

The following discussion applies only if a Purchaser buys an Interest directly from the Trust pursuant to this Offering. You should not view the following analysis as a substitute for careful tax planning, particularly because the income tax consequences of an investment in an Interest are uncertain and complex. Also, the tax consequences will not be the same for all taxpayers. You should be aware that the following discussion necessarily condenses or eliminates many details that might adversely and/or significantly affect you and does not address the tax issues that may be important to you if you are subject to special tax treatment (e.g., if you are a non-resident alien or a tax-exempt entity). For example, special rules not discussed here may apply to you if you are: a broker-dealer or a dealer in securities or currencies; an S corporation; a bank, thrift or other financial institution; a regulated investment company or a real estate investment trust; an insurance company; a tax-exempt organization; subject to any of the alternative minimum tax provisions of the Code; holding the Interests as part of a hedge, straddle, conversion, integrated or other risk reduction or constructive sale transaction; a U.S. Person whose "functional currency" is not the U.S. dollar; or a U.S. expatriate or former long-term resident. Except where otherwise noted, this discussion addresses only federal income tax aspects of an investment in an Interest and does not address or discuss aspects of state and local taxation relating to such an investment. Each prospective Purchaser should consult its own tax advisor about the specific tax consequences to it before investing.

The following discussion of federal income tax consequences is based on laws and regulations presently in effect and, except where noted, does not address state, local, foreign, or other tax laws, including gift and estate tax laws. You should be aware that new administrative, legislative or judicial action could significantly change the tax aspects associated with an Interest. In particular, the OBBBA has recently revised certain provisions of the federal income tax law that affect the tax consequences of real estate investments. Many of these provisions are complex and their scope and interpretations are presently uncertain.

Accordingly, there is uncertainty concerning certain tax aspects discussed herein, and there can be no assurance that the IRS may not challenge some of the deductions you may claim or positions you may take. Specifically, as of the date of this Memorandum, there has been limited guidance issued to address the uncertainties under the OBBBA. . Should the IRS challenge the tax treatment of an investment in an Interest, even if the challenge is unsuccessful, you could be faced with substantial legal and accounting costs in resisting the challenge.

You should not buy an Interest solely for the purpose of obtaining a tax shelter for income from other sources. An Interest is unlikely to provide any such tax shelter.

Before buying an Interest, you must represent and warrant that you:

(i) have independently obtained advice from your legal counsel and/or accountant about any tax-deferred exchange under Code Section 1031 and applicable state laws, including, without limitation, whether your acquisition of an Interest pursuant to this Offering will enable you to defer the recognition of gain on your disposition of Relinquished Property pursuant to Code Section 1031, and you are relying on such advice;

(ii) understand that neither the Trust, the Sponsor, the Trustees, the Manager nor any of their affiliates have obtained a ruling from the IRS that an Interest will be treated as an undivided interest in real property, as opposed to an interest in a partnership, a security or a certificate of trust or beneficial interest;

(iii) understand that the federal income tax consequences of an investment in an Interest, especially the treatment of the transaction under Code Section 1031 and the related Section 1031 Exchange rules, are complex and vary with the facts and circumstances of each individual Purchaser;

(iv) are a U.S. Person; and

(v) understand that the opinion of Tax Counsel is only Tax Counsel's view of the anticipated federal income tax treatment and there is no guarantee that the IRS will agree with such opinion.

Nature of Interests

Classification of Trust. The Sponsor has attempted to structure the Offering of Interests so that a Purchaser acquiring an Interest will be treated for Code Section 1031 purposes as acquiring an interest in real property and not either an interest in a partnership, a security or a certificate of trust or beneficial interest. If an Interest were to be treated as an interest in a partnership, a security or a certificate of trust or beneficial interest, then a Purchaser of an

Interest would be unable to use its acquisition of an Interest as part of a transaction to defer gain under Code Section 1031.

The Trust has obtained an opinion from Tax Counsel that: (i) the Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a); (ii) the Beneficial Owners should be treated as "grantors" of the Trust; (iii) as "grantors," the Beneficial Owners should be treated as owning an undivided fractional interest in the Property for federal income tax purposes; (iv) the Interests should not be treated as securities for purposes of Code Section 1031; (v) the Interests should not be treated as certificates of trust or beneficial interests for purposes of Code Section 1031; (vi) the Master Lease should be treated as a true lease and not a financing for federal income tax purposes; (vii) the Master Lease should be treated as a true lease and not a deemed partnership for federal income tax purposes; (viii) the discussions of the federal income tax consequences contained in this Memorandum are correct in all material respects; and (ix) certain judicially created doctrines should not apply to change the foregoing conclusions. The issues which are the subject of such opinion have not been definitely resolved by statutory, administrative or case law.

A Purchaser who is acquiring an Interest as Replacement Property in a Section 1031 Exchange for an interest in real property must be aware that in order to qualify any of its gain realized in such exchange for tax deferral under Code Section 1031, the Interest must be treated as an interest in real property.

Tax Counsel's opinion is based upon existing cases and rulings, and in particular the analysis in Revenue Ruling 2004-86, 2004-2 C.B. 191. Revenue Ruling 2004-86 sets forth the limited circumstances under which a DST may be classified as an "investment trust" for federal income tax purposes rather than as a business entity taxable as a corporation or partnership. Revenue Ruling 2004-86 concludes that, because the beneficial owners of interests in an "investment trust" are "grantors" that are treated as directly owning an undivided fractional interest in the property held by the trust for federal income tax purposes, the exchange of real property by such beneficial owners for an interest in an investment trust is treated as an exchange of real property for an interest in the investment trust's real property, rather than for a certificate of trust or beneficial interest under Code Section 1031.

Tax Counsel's opinion that the Beneficial Owners should be treated as grantors of the Trust means that a Beneficial Owner is required to take into account, in computing its federal income tax liability, its proportionate share of all items of income, gain, loss, deduction and credit attributable to the Trust. In addition, all property owned by the Trust will be deemed for federal income tax purposes to be owned by the grantors of the Trust in proportion to their Interests issued by the Trust.

A Beneficial Owner should be treated as a grantor of the Trust because the Beneficial Owner conveyed cash to the Trust in exchange for an Interest. In addition, each Beneficial Owner will have a reversionary interest in the Trust's corpus and will be automatically entitled to receive its proportionate share of the income of the Trust. Further, and in light of the fact that the Beneficial Owners should be treated as grantors of the Trust, each Beneficial Owner should be treated as a grantor with respect to the Trust because the Trust has been structured such that it should comply with the fixed investment trust rules and Revenue Ruling 2004-86. Therefore, the Beneficial Owners should be treated, for federal income tax purposes, as if they own their respective fractional interests in the Property that is held by the Trust, notwithstanding the fact that an Interest could be treated as intangible property or securities for securities law, state law or local law purposes. The Tax Cuts and Jobs Act of 2017 (the "**TCJA**") eliminated the specific exceptions under Code Section 1031 for securities and other intangible assets. Although the specific language providing for the exceptions has been eliminated, Tax Counsel believes that an analysis of these terms remains relevant and concluded that the Interests should not be treated as securities for purposes of Code Section 1031. However, due to the current lack of guidance regarding the scope of the TCJA's amendment to Code Section 1031, it is possible that the IRS could take a contrary position on these issues.

The Trust and the Sponsor have not received and will not request a private letter ruling from the IRS regarding the federal income tax classification of the Trust. After examining the relevant cases, Treasury Regulations and rulings (and, in particular, Revenue Ruling 2004-86 and Treasury Regulations Section 301.7701-4(c)), however, Tax Counsel has concluded that the Trust should be treated as an "investment trust" for federal income tax purposes because the powers and authority granted to the Trustees, Manager, Beneficial Owners and the Trust in the Trust Agreement do not exceed the powers and authority of the "investment trust" described in Revenue Ruling 2004-86. Tax Counsel has also concluded that the Beneficial Owners should be treated as grantors of the Trust. Tax Counsel further believes that these conclusions are consistent with the underlying cases, Treasury Regulations and rulings that govern whether a DST is classified for federal income tax purposes as an "investment trust" rather than as a business entity taxable as a corporation or partnership.

There is always a risk that the IRS may not agree with such opinion. The opinion of Tax Counsel is predicated on all the facts and conditions set forth in the opinion and is not a guarantee of the current status of the law and should not be accepted as a guarantee that a court of law or an administrative agency will concur in the opinion. If any of the facts or assumptions set forth in the opinion prove incorrect, it is possible that the tax consequences could change.

The Trust and other related arrangements have been structured to be substantially similar to the trust and other related arrangements described in Revenue Ruling 2004-86. There are several possible distinctions, however, including, but not limited to: (i) the ongoing role of the Manager; (ii) the potential termination of the Trust as a result of a Transfer Distribution; and (iii) providing the Manager with discretion to cause a sale of the Property. Tax Counsel has concluded that all of these provisions are consistent with the analysis in Revenue Ruling 2004-86 and the underlying cases and rulings, but no ruling will be obtained from the IRS in this regard.

THE ABOVE IS A SUMMARY OF THE OPINION FROM TAX COUNSEL. PURCHASERS SHOULD REVIEW THE ATTACHED OPINION IN ITS ENTIRETY.

Potential Significant Tax Costs If Interests Were Classified as Interests in a Partnership, Securities or Certificates of Trust or Beneficial Interests. If the Purchasers were to be treated for tax purposes as purchasing interests in a partnership, securities or certificates of trust or beneficial interests, the Purchasers would not qualify for deferral of gain under Code Section 1031, and each Purchaser who had relied on deferral of its gain from disposition of other interests in real property would immediately recognize such gain and be subject to federal income tax thereon. Moreover, since such determination would of necessity come after such Purchaser had purchased its Interest, such Purchaser would have no cash from the disposition of his, her or its original interests in real property with which to pay the tax. Given the illiquid and long-term nature of an investment in the Interests, there would be no practical means of generating cash from an investment in the Interests to pay the tax. In such a case, a Purchaser would have to use funds from other sources to satisfy its tax liabilities.

Code Section 1031 Non-Recognition Treatment

Identification. The Treasury Regulations under Code Section 1031 require that a taxpayer identify Replacement Property during the period that begins on the date that the taxpayer transfers its Relinquished Property and ends at midnight on the 45th day thereafter (the "**Identification Period**") (although if, as part of the same deferred exchange, the taxpayer transfers more than one Relinquished Property and the Relinquished Properties are transferred on different dates, then the Identification Period is determined by reference to the earliest date on which any of the properties are transferred). Also, any Replacement Property that is received by a taxpayer before the end of the Identification Period is in all events treated as identified before the end of the Identification Period.

Taxpayers are permitted to identify three properties without regard to the fair market value of the properties under the three-property rule or multiple properties with a total fair market value not in excess of 200% of the value of the Relinquished Property under the 200% rule. A taxpayer also may identify any number of properties if it acquires at least 95% of the aggregate fair market value of all the identified properties under the 95% rule.

For purposes of both the 200% rule and the 95% rule, "fair market value" means the fair market value of the applicable property without regard to any liabilities secured by the property. Thus, a taxpayer identifying under the 200% rule for an unencumbered Relinquished Property having a value of $20 million could only identify Replacement Property(ies) having an aggregate gross fair market value (without regard to any liabilities which may encumber such property(ies)) of $40 million, in which case the identification of a single Replacement Property having a $30 million equity value but which is secured by a $20 million liability (and, thus, having a $50 million gross value) would violate the 200% rule.

The Offering should consist of one property for purposes of Code Section 1031. The Property must be specifically identified for a Section 1031 Exchange. With respect to the Offering, when a Purchaser acquires an Interest in the Trust, the Purchaser should be deemed as acquiring a fractional interest in the Property. In general, the identification rules of Code Section 1031 are strictly construed, and a Purchaser's exchange will not qualify for deferral of gain under Code Section 1031 if too many properties are identified or if the deadlines for identification are not met.

For purposes of the three-property rule, the IRS has not provided direct guidance on what constitutes "one property" for identification purposes. The IRS, however, did offer an interpretation of what constitutes "one property" in the context of multiple parcels of property owned by co-owners leased to a single tenant. Although this interpretation does not specifically apply to the identification rules under Code Section 1031, in Revenue Procedure 2002-22, the

IRS provided that it will generally treat contiguous parcels as comprising a single business unit or "property." Further, in Revenue Procedure 2002-22, the IRS provided that even if the parcels are not contiguous, the IRS may treat multiple parcels as comprising a single business unit where there is a close connection between the business use of one parcel and the business use of another parcel.

The Sponsor believes that the Property should constitute a single property for purposes of the identification rules, including the three-property rule, although since there can be no assurance that a Purchaser's offer to acquire an Interest will be accepted, a Purchaser should not identify only the Property. In general, the identification rules of Code Section 1031 are strictly construed, and a Purchaser's exchange will not qualify for deferral of gain under Code Section 1031 if too many properties or properties comprising too much value (including by reason of not excluding the effect of the Loan for "fair market value" purposes) are identified, if the properties are not correctly identified, or if the deadlines for identification are not met. Prospective Purchasers will have to rely on the 200% rule or 95% rule with respect to the Offering and should seek the advice of their tax advisors prior to subscribing for the Interests or making an identification. Tax Counsel will not render an opinion on identification matters and prospective Purchasers should seek the advice of their own tax advisors prior to subscribing for the Interests or identifying the Property as Replacement Property for a Section 1031 Exchange.

Other Requirements of Code Section 1031. Code Section 1031 provides for non-recognition of gain or loss only if real property held for use in a trade or business or for investment is exchanged for other real property of like-kind held for use in a trade or business or for investment. There are numerous requirements contained in the applicable provisions of the Code and Treasury Regulations concerning qualification for non-recognition under Code Section 1031. For instance, prospective Purchasers seeking to engage in a "deferred" exchange (within the meaning of Treasury Regulations Section 1.1031(k)-1) must properly identify one or more potential Replacement Properties within the 45-day identification period and complete the exchange within the 180-day exchange period. Such prospective Purchasers should also consider whether their arrangement falls within the "qualified intermediary" and/or "qualified escrow account" safe harbors of Treasury Regulations Section 1.1031(k)-1(g). Prospective Purchasers wishing to engage in a "reverse" or "parking" exchange should consult Revenue Procedure 2000-37, 2002-2 C.B. 308, which establishes a safe harbor for such exchanges. Each prospective Purchaser will have to determine with its own tax advisors whether an exchange to be engaged in by the prospective Purchaser satisfies the requirements of Code Section 1031.

Receipt of Identified Property. In addition to satisfying the identification rules, a taxpayer seeking to complete a Section 1031 Exchange must actually receive identified Replacement Property by no later than midnight on the earlier of the 180th day after the date that the taxpayer transfers the Relinquished Property or the due date (including extensions) for the taxpayer's income tax return for the taxable year in which the transfer of the Relinquished Property occurs.

"Real Property" for Purposes of Code Section 1031. Under the TCJA, subject to certain transition rules, Section 1031 Exchanges only apply to "real property" effective after December 31, 2017. Thus, tangible personal property and intangible property (even if associated with the real property) are no longer eligible for Section 1031 Exchanges under the TCJA. The TCJA, however, provided no guidance on the definition of "real property" for purposes of Code Section 1031. The existing Treasury Regulations defined "real property" by reference to local law. On June 12, 2020, proposed regulations were issued under Code Section 1031 and provided a broad definition of "real property" for purposes of Code Section 1031. Subsequently, on November 23, 2020, the Treasury and the IRS released the "**Final 1031 Regulations**" defining "real property" for purposes of Code Section 1031. Under the Final 1031 Regulations, property is classified as real property for purposes of Code Section 1031 if the property is (i) classified as real property under the law of the state or local jurisdiction in which the property is located (subject to certain exceptions), (ii) specifically listed as real property in the Final 1031 Regulations, such as land, improvements to land, unsevered natural products of land, water and air space superjacent to land, and certain intangible interests in real property or (iii) considered real property based on all the facts and circumstances under the various factors provided in the Final 1031 Regulations. The Final 1031 Regulations have also provided guidance for taxpayers receiving incidental personal property or paying for incidental personal property with funds being held by a qualified intermediary during a Section 1031 Exchange. Paying for or receiving personal property during a Section 1031 Exchange will not disqualify the entire transaction as long as the personal property is considered "incidental" to such Replacement Property. Personal property will be considered "incidental" to Replacement Property acquired in a Section 1031 Exchange if, (i) in standard commercial transactions, the personal property is typically transferred together with the Replacement Property and (ii) the aggregate fair market value of the incidental personal property transferred with the real property does not exceed 15% of the aggregate fair market value of the Replacement Property.

Each prospective Purchaser will have to determine with its own tax advisors whether an exchange engaged in by the prospective Purchaser satisfies the requirements of Code Section 1031. Prospective Purchasers should consult with their own tax advisors regarding the implications of the Final 1031 Regulations.

Treatment as an Interest in a Partnership or Security. Code Section 1031 excludes an interest in a partnership or security from the categories of property that may qualify for nonrecognition. Thus, if the IRS were to classify the Interests as such for Code Section 1031 purposes, the Interests would not qualify as Replacement Property for a Section 1031 Exchange. Based on an analysis of relevant authorities, however, Tax Counsel has concluded that, in all material respects, an Interest should not be considered an interest in a partnership or a security for purposes of Code Section 1031.

Changes to the Section 1031 Exchange Rules Could Have Negative Implications. The U.S. Congress periodically evaluates various proposed modifications to the Section 1031 Exchange rules that could, if enacted, prospectively repeal or restrict the ability to utilize a Section 1031 Exchange to achieve tax deferral on gain in connection with the disposition of real property or beneficial interests in a fixed investment trust. It is possible that repeal or amendment of Code Section 1031 or the Treasury Regulations promulgated thereunder could negatively impact the use of a Section 1031 Exchange in connection with a Purchaser's exit strategy.

Status as a True Lease for Federal Income Tax Purposes. Transactions structured as leases may be recharacterized for federal income tax purposes to reflect their economic substance. For example, in appropriate circumstances a purported lease of property may be recharacterized as a sale of the property providing for deferred payments. Such a recharacterization in this context would have significant (and adverse) tax consequences. For example, if the Master Lease were to be recharacterized as a sale of the Property, then a Purchaser would be unable to treat the acquired Interest as qualified Replacement Property in a Section 1031 Exchange in that the Interest would constitute an interest in real property that the Purchaser would not hold for investment. That is, the Purchaser would be treated as having immediately sold the acquired interest in the Property to the Master Tenant with the Master Tenant being treated as purchasing the Property (and all of the interests therein) from the Purchasers in exchange for an installment note for federal income tax purposes. As a result, Purchasers attempting to participate in Section 1031 Exchanges would not be treated as having received qualified Replacement Property when they acquired their Interest because the Purchaser would be treated as having made a loan to the Master Tenant. As the owner of the Property for federal income tax purposes, the Master Tenant would be entitled to claim any depreciation deductions. To the extent that payments of "rent" were recharacterized as payments of interest and principal, the payment of principal would not be treated as the receipt of taxable income by the Purchasers and would not be deductible by the Master Tenant, as applicable. All of these consequences could have a significant impact on the tax consequences of an investment in an Interest.

Revenue Procedure 2001-28 sets forth advance ruling guidelines for "true lease" status. We have not sought, and do not expect to request, a ruling from the IRS under Revenue Procedure 2001-28. These ruling guidelines provide certain criteria that the IRS will require to be satisfied in order to issue a private letter ruling that a lease is a "true lease" for federal income tax purposes. In the event of an examination by the IRS, the IRS and, ultimately, the courts of applicable jurisdiction, would consider these ruling guidelines, together with existing cases and rulings, for purposes of determining whether a lease qualifies as a true lease for federal income tax purposes. However, Tax Counsel does not believe that strict compliance with Revenue Procedure 2001-28 is required to conclude that the Master Lease should be characterized as a true lease for federal income tax purposes. Rather, Tax Counsel believes that satisfying most of the material ruling guidelines should be sufficient for purposes of determining the characterization of the Master Lease for federal income tax purposes. We will receive an opinion of Tax Counsel that Tax Counsel believes the Master Lease satisfies most of the pertinent material conditions set forth in Revenue Procedure 2001-28 and that the Master Lease should be treated as a true lease rather than as a financing for federal income tax purposes. Similarly, if the Master Tenant were treated as a mere agent of the Trust rather than as a lessee, the power of the Master Tenant to make improvements to the Property and to re-lease the Property could be attributed to the Trust, and the Trust could be deemed to have powers prohibited under Revenue Ruling 2004-86. We have considered the issue and, after having consulted with Tax Counsel, have concluded that the Master Tenant should not be treated as an agent of the Trust. However, there is no assurance that the IRS would agree with these positions.

Qualification under Code Section 1033. Code Section 1033 allows nonrecognition of gain (but not loss) if: (1) the gain is realized on an involuntary conversion of property as a result of its destruction, theft, seizure, or condemnation, and (2) within a prescribed period of time, the property is replaced with Similar Use Property. If the condemned property is converted directly into Similar Use Property, nonrecognition of gain is mandatory. If the

condemned property is converted into money or non-Similar Use Property, nonrecognition of gain is elective if the taxpayer replaces the money or non-Similar Use Property with Similar Use Property within a prescribed period of time. Broadly speaking, there are four types of replacement property that qualify for nonrecognition of gain under Code Section 1033: (1) Similar Use Property, (2) stock of a controlled corporation owning primarily Similar Use Property, (3) real property that is "like-kind," and (4) certain farm property. Specifically, for condemned real property which is held for productive use in a trade or business or for investment, Code Section 1033(g)(1) provides that "like-kind" real property will be treated as Similar Use Property. The replaced like-kind real property must also be held for productive use in a trade or business or for investment. Thus, similar to a Section 1031 Exchange, Code Section 1033 allow a taxpayer to reinvest proceeds from a forced conversion into a like-kind exchange of real property in a tax-deferred manner.

Although similar, the rules and timelines relating to an exchange under Code Section 1033 are different than those under Code Section 1031. For example, Treasury Regulations Section 1.1033(a)-2(c)(2) requires taxpayers to provide "all … details in connection with an involuntary conversion of property at a gain" on the return for the years in which any portion of the gain is realized. A failure to include gain in the tax return is deemed as a Code Section 1033 election. Further, the replacement may begin on the earlier of the conversion or the threat or imminence of condemnation. As for the deadline, Code Section 1033(a)(2)(B)(i) provides that the replacement period ends two years after the close of the first taxable year in which conversion gain is realized. For like-kind replacement properties under Code Section 1033(g), an extended three-year replacement period applies. Prospective Purchasers should consult with their own tax advisor regarding the application of Code Section 1033 to his, or, or its own particular circumstances, including compliance and reporting obligations.

Tax Rates. Under current law, and subject to certain exceptions, long-term capital gains of individuals are generally subject to tax at a maximum federal income tax rate of 20% (25% for any long-term capital gains that constitute "**unrecaptured Section 1250 gain**") and ordinary income of individuals is generally subject to a maximum federal income tax rate of 37% (reduced by the TCJA from 39.6%). In addition, the Code generally imposes on certain individuals, trusts and estates an additional Medicare Tax of 3.8% on the lesser of (i) "net investment income" or (ii) the excess of modified adjusted gross income over a threshold amount. Prospective Purchasers should consult with their own tax advisors regarding the possible implications of the Medicare Tax in light of their individual circumstances.

20% Passthrough Deduction. Taxpayers are eligible for a 20% deduction on a taxpayer's "qualified business income." Although this deduction was originally scheduled to sunset for the taxable year ending December 31, 2025, the OBBBA made this deduction permanent. This deduction, under Code Section 199A, reduces the highest marginal effective tax rate for ordinary income from 37% to 29.6% for income arising from a "qualified trade or business," as defined in Section 162, conducted by a partnership, S corporation or sole proprietorship. In the case of a partnership or S corporation, Code Section 199A applies at both the entity and individual partner or shareholder level. For taxpayers above certain income thresholds, the "qualified trade or business" must have sufficient amounts of W-2 wages paid or a combined sufficient amount of wages plus the unadjusted basis of certain property (including buildings, but not land).

Under current law, taxpayers may aggregate certain real estate activities engaged in through multiple partnerships or S corporations, or otherwise held directly or indirectly, if certain requirements are satisfied. In addition, certain taxpayers who meet specific requirements may be allowed trade or business income treatment from certain "rental real estate enterprises." However, this treatment is not available where the property used by the taxpayer is subject to a triple net lease. For this purpose, the IRS has defined a "triple net lease" as "a lease agreement that requires the tenant or lessee to pay taxes, fees, and insurance, and to pay for maintenance activities for a property in addition to rent and utilities." The definition of a triple net lease for the purpose of Revenue Procedure 2019-38 may overlap significantly with the Master Lease.

Prospective Purchasers should consult with their own tax advisors regarding the possible application of Code Section 199A to their own particular circumstances.

Other Tax Consequences

Taxation of the Trust. Tax Counsel has opined that the Trust should be classified as an "investment trust" treated as a "trust" for federal income tax purposes and, further, that the Beneficial Owners should be treated as "grantors" of the Trust. Accordingly, the Trust should not be subject to federal income tax and each Beneficial Owner

should be subject to federal income taxation as if it owned directly the portion of the Property proportionate to the Interest owned by the Beneficial Owner and as if it paid directly its share of expenses paid by the Trust.

The following discussion assumes that the Trust is, and the Interests represent interests in, an "investment trust" that is treated as a trust for federal income tax purposes.

Code Section 467 Rent Allocation. Under the Master Lease, if the Property's cash flow is insufficient to support all operating expenses and Base Rent and other payments, the Master Tenant may defer on a month-to-month basis a portion of the Additional Rent or Supplemental Rent payments, but only so long as the amount of Base Rent paid to or on behalf of the Trust is sufficient to fully service the Trust's payment obligations under the Loan Documents. Although the issue is not completely settled under existing law, under Code Section 467 of the Code, if the Master Tenant were to defer payment of rent, the Beneficial Owners may still be required to report and pay tax on rent in accordance with the schedule set forth on **Exhibit A** to the Master Lease. As a result, Beneficial Owners may be required to recognize rental income even though all of the rent may not be currently paid and, in such circumstances, may have to use funds from other sources to pay tax on such income. In addition, Beneficial Owners may have to recognize imputed interest income on such deferred amounts.

Depreciation and Cost Recovery. Current federal income tax law allows an owner of improved real property to take depreciation deductions based on the entire cost of the depreciable improvements, even though such improvements are financed in part with borrowed funds. If, however, the purchase price of an Interest, including the non-recourse liabilities to which the Property is subject, are in excess of the fair market value of the Property, a Purchaser will not be entitled to take depreciation deductions to the extent deductions are derived from such excess.

The Code provides separate cost recovery rules for certain "qualified improvement property." Qualified improvement property is any improvement to an interior portion of a building that is non-residential real property if the improvement is placed in service after the date the building itself was first placed in service. Despite Congressional intent to afford qualified improvement property to a more favorable recovery period, the Code as written subjects qualified improvement property to the 39-year recovery period that generally applies to real property.

Up to $2,500,000 for 2025 and $2,560,000 for 2026 of certain improvements made to non-residential real property first placed into service in a taxable year may be expensed and currently deducted for tax purposes (subject to certain limitations). Due to the limitations on expenditures for improvements imposed on the Trust, the Manager does not anticipate that the Trust will incur a significant amount of any such expenses.

The amount of depreciation a Purchaser will be entitled to claim with respect to the Property will depend on the Purchaser's adjusted basis in depreciable assets that are part of the Property. A Purchaser who acquires an Interest as part of a Section 1031 Exchange generally will have a "carryover" basis equal to such Purchaser's basis in its Relinquished Property, decreased by the amount of money (if any) received in the Section 1031 Exchange and not reinvested in like-kind property in accordance with Code Section 1031, and increased by the amount of gain (e.g., taxable "boot") and decreased by the amount of loss recognized by the Purchaser in such Section 1031 Exchange. In addition, the Purchaser's basis must be allocated among the depreciable and non-depreciable assets that are part of the Property and special rules apply to the determination of the period and method that must be used to calculate depreciation with respect to property received in a Section 1031 Exchange. Each Purchaser will have to compute his, her or its own cost basis in the Property for tax purposes, including any adjustment to basis as may be required if a Purchaser is buying an Interest in the Trust in order to take advantage of the rules deferring the recognition of gain on real property under Code Section 1031, when computing depreciation allowed with respect to the Property.

Allocation of Liabilities. Any liabilities incurred by the Trust will be allocated, for federal income tax purposes, to the Beneficial Owners *pro rata* in proportion to their Interests. For purposes of determining the purchase price of Replacement Property in a Section 1031 Exchange, each Purchaser should be able to include its proportionate share of the liabilities that encumber the Property at the time of the acquisition of an Interest.

Payments to Sponsor and its Affiliates. The Sponsor and its affiliates will receive various fees described elsewhere in this Memorandum. The tax treatment of some of these fees is set forth below.

Although each prospective Purchaser should be treated for federal income tax purposes as buying an undivided interest in the Property, it is possible the IRS may take the view that the amount by which the price of an undivided interest exceeds the *pro rata* share of the price paid by the Trust for the Property is not to be treated as a purchase of real property, but instead as a non-deductible capitalized item.

Real estate brokerage commissions (whether or not paid to affiliates of the Sponsor) will be treated as capitalized expenditures and added to the basis of the Property. Such real estate brokerage commissions (whether or not paid to affiliates of the Sponsor) paid upon the sales, exchange or other disposition of the Property will be treated as an adjustment of the sales price.

Possible Adverse Tax Treatment for Closing Costs and Reserves. A portion of the proceeds of the Offering will be used to pay each Purchaser's *pro rata* share of closing costs, expenses and other costs of the Offering. In addition, a portion of the proceeds of the Offering may be treated as having been used to purchase an interest in reserves established by the Sponsor rather than for real property. Because the tax treatment of certain expenses of the Offering, closing costs, financing costs or reserves is unclear and may vary depending upon the circumstances, no advice or opinion of Tax Counsel will be given regarding the tax treatment of such costs and the treatment of proceeds attributable to the reserves, which may be taxable as "boot" to those Purchasers who purchase their Interests as part of a Section 1031 Exchange. Therefore, each prospective Purchaser should seek the advice of a qualified tax advisor as to the proper treatment of such items. In addition, any Offering proceeds used to fund the Supplemental Trust Reserve would not be treated as reinvested in qualifying Replacement Property for purposes of Code Section 1031. The Supplemental Trust Reserve was funded from Loan proceeds. Each prospective Purchaser should seek the advice of a qualified tax advisor as to the proper treatment of such items.

Receipt of Boot. In a Section 1031 Exchange, money received or deemed received in addition to the like-kind property is referred to as "boot." Gain realized on the Relinquished Property transaction is recognized up to the amount of "boot" received or deemed received. Generally, personal property, amounts used to establish reserves and impounds or other similar items, as well as seller credits, funded out of Relinquished Property proceeds may not be treated as an interest in real property in connection with acquiring Replacement Property and may be treated as "boot." Prospective Purchasers should be aware that the IRS may take the position that, if paid with funds derived from the sale of Relinquished Property, certain costs, escrows, reserves and impounds, as well as seller credits, paid in connection with the sale of Relinquished Property and purchase of Replacement Property may be deemed "boot" and be taxable income to such prospective Purchasers. However, the IRS has provided guidance in Revenue Ruling 72-456, 1972-2 C.B. 468 regarding transactional costs paid by the taxpayer with exchange proceeds. In such ruling the IRS indicated that transactional costs paid by the taxpayer, such as brokerage commissions, can be deducted from transactional costs paid out in connection with the exchange. It is also possible that some of these items considered "boot" and not treated as like-kind amounts may be offset by similar items from a taxpayer's Relinquished Property transaction, thereby reducing taxable gain recognition.

No opinion of Tax Counsel will be provided with respect to the amount of "boot" in the transaction and no representation or warranty of any kind is made with respect to the tax consequences of a Section 1031 Exchange. Any amounts that are not treated as a like-kind interest in real property will also result in taxable income to a Purchaser to the extent of such Purchaser's gain. Loan fees, points, loan application fees, mortgage insurance, lender's title insurance, assurance, assumption fees, and other costs related to the acquisition of a loan for the Replacement Property, such as appraisals, are most likely not exchange expenses and do not reduce realized or recognized gain. These costs generally are treated as part of the costs of obtaining a loan as opposed to costs in obtaining the property. Thus, if these costs are paid with exchange funds, they have the effect of potentially causing taxable "boot" to the Purchaser. Similarly, it is possible that any reserves that are funded from Offering proceeds may cause a Purchaser to recognize "boot." Thus, it is possible that the Supplemental Trust Reserve may cause a Purchaser to recognize "boot." Each prospective Purchaser should seek the advice of a qualified tax advisor as to the proper treatment and impact of such items.

Deductibility of Trust's Fees and Expenses. In computing its federal income tax liability, a Purchaser will be entitled to deduct, consistent with its method of accounting, the Purchaser's share of reasonable administrative fees, trustee fees and other fees, if any, paid or incurred by the Trust as provided in Code Sections 162 or 212, which may be subject to the limitations applicable to miscellaneous itemized deductions. All miscellaneous itemized deductions (except for certain "educator expenses") are permanently disallowed under current law. As such, a Beneficial Owner will not be able to deduct as a miscellaneous itemized deduction its share of such fees paid by the Trust during this period. However, if a Beneficial Owner owns an Interest in connection with a trade or business, Trust fees and expenses may be deductible under Code Section 162. Beneficial Owners should seek the advice of a qualified tax advisor as to the proper treatment of such items.

Transfer to the Springing LLC. If a Transfer Distribution occurs, the Property will be transferred from the Trust to the Springing LLC and the membership interests in the Springing LLC resulting from the Trust will be

distributed to the Beneficial Owners. It is anticipated that the Manager or its affiliate will serve as the manager of the Springing LLC. The Springing LLC will be treated as a partnership for federal income tax purposes. A Transfer Distribution may occur under the circumstances set forth in the Trust Agreement without regard to the tax consequences that arise as a result of the transaction. Under current law, such a transfer generally would not be subject to federal income tax pursuant to Code Section 721. The transfer could be subject, however, to state or local income, transfer or other taxes. In addition, there can be no assurances that such transfer will not be taxable under the federal income or other tax laws in effect at the time the transfer occurs. Because a Transfer Distribution could occur in several situations, it is not possible to determine all of the tax consequences to the Beneficial Owners in the event of a Transfer Distribution. PROSPECTIVE PURCHASERS SHOULD CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES OF A TRANSFER DISTRIBUTION AND THE EFFECT OF THE PROPERTY BEING HELD BY THE SPRINGING LLC RATHER THAN THE TRUST.

Likely Lack of Deferral of Tax upon Sale of Springing LLC Membership Interests. Unlike interests issued by the Trust, membership interests in the Springing LLC will not be treated as direct ownership interests in real property for federal income tax purposes (including for purposes of a like-kind exchange under Code Section 1031). **THUS, IF THE TRUST TRANSFERS THE PROPERTY TO THE SPRINGING LLC IN A TRANSFER DISTRIBUTION, IT IS UNLIKELY THAT ANY OF THE BENEFICIAL OWNERS WHO RECEIVE MEMBERSHIP INTERESTS IN THE SPRINGING LLC WOULD THEREAFTER BE ABLE TO DEFER THE RECOGNITION OF GAIN UNDER CODE SECTION 1031 ON A SUBSEQUENT DISPOSITION OF THEIR MEMBERSHIP INTERESTS IN THE SPRINGING LLC OR DISPOSITION OF THE PROPERTY BY THE SPRINGING LLC.**

Limitations on Losses and Credits from Passive Activities. Losses from passive trade or business activities generally may not be used to offset "portfolio income," i.e., interest, dividends and royalties, or salary or other active business income. Losses from passive activities may generally be used only to offset income from passive activities. Interest deductions attributable to passive activities are treated as a component of passive activity losses, and not as investment interest. Thus, such interest deductions are subject to limitation under the passive activity loss rule and not under the investment interest limitation. Credits from passive activities generally are limited to the tax attributable to the income from passive activities. Passive activities include: (i) trade or business activities in which the taxpayer does not materially participate, and (ii) rental activities. Thus, a Purchaser's share of the Property's income and loss will, in all likelihood, constitute income and loss from passive activities and will likely be subject to a passive loss limitation.

Losses (or credits that exceed the regular tax allocable to passive activities) from passive activities that exceed passive activity income are disallowed and can be carried forward and treated as deductions and credits from passive activities in subsequent taxable years. Disallowed losses from an activity, except for certain dispositions to related parties, are allowed in full when the taxpayer disposes of its entire interest in the activity in a taxable transaction.

In the case of rental real estate activities in which an individual actively participates, up to $25,000 of losses (and credits in a deduction-equivalent sense) from all such activities are allowed each year against portfolio income and salary and active business income of the taxpayer. Except as provided below with respect to "real estate professionals," Purchasers will not, in all likelihood, be actively participating in the Property's rental real estate activities, and therefore will not be able to deduct any loss against their portfolio or active business income. Moreover, even if a Purchaser actively participates in rental real estate activities, there is a phase out of the $25,000 allowable loss equal to 50% of the amount by which a Purchaser's adjusted gross income exceeds $100,000. Therefore, if a Purchaser's adjusted gross income is $150,000 or more for any given year, he, she or it cannot use any of the $25,000 passive losses to offset non-passive income under this rule.

Certain taxpayers can, in limited circumstances, deduct losses and credits from rental real estate activities against other income, such as salaries, interest, dividends, etc. A taxpayer qualifies for this exception to the passive loss rules described above if: (i) more than half of the personal services performed by the taxpayer in trades or businesses during a year are performed in real property trades or businesses in which the taxpayer materially participates, (ii) the taxpayer performs more than 750 hours of services during the year in real property trades or businesses in which the taxpayer materially participates and (iii) the taxpayer elects to treat all interest in rental real estate as a single activity. Code Section 469(c) provides that a qualifying real estate professional must establish material participation in each separate rental activity. However, an exception allows a qualifying real estate professional to elect to aggregate all interests in rental real estate for purposes of measuring material participation. In the case of a joint return, one spouse must satisfy both requirements. A real property trade or business is any real

property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing or brokerage trade or business. In determining whether a taxpayer performs more than half of its personal services in real property trades or businesses, services performed as an employee are disregarded unless the employee owns more than 5% of the employer. Purchasers should consult with their own tax advisors to determine if this rule applies to them.

Net Income and Loss of Each Purchaser. Each Purchaser will be required to determine its own net income or loss from the Property and the Trust for income tax purposes. Each Purchaser will be required to pay its share of expenses of the Property and the Trust, and will be entitled to its share of income therefrom. Certain expenses, such as depreciation, will be different for different Purchasers. The Manager will keep or otherwise engage a third party recordkeeping service provider to manage the records and provide information about expenses and income of the Property and the Trust for each Purchaser. A Purchaser, however, will be required to keep separate records to separately report its income.

Any gain or loss realized on the sale or exchange of an Interest will generally be treated as capital gain or loss, provided the seller is not deemed a "dealer" in real property. As a general rule, the holding of interests in real property for investment is not the type of activity that would cause a person or entity to be considered a "dealer" in real property. The question of "dealer" status is a question of fact, will depend on all of the facts and circumstances and will be determined at the time of a sale. If a Purchaser is deemed a "dealer" and its Interest is not considered either a capital asset or real property held by such Purchaser for more than one year and used by such Purchaser in a trade or business under Code Section 1231 ("**Section 1231 Real Property**") any gain or loss on the sale or other disposition of the Interest would be treated as ordinary income or loss. However, regardless of whether the selling Purchaser is a "dealer," any portion of the gain that is attributable to unrealized receivables, depreciation recapture or inventory items will generally be treated as ordinary income. In general, if an Interest is a capital asset, any profit or loss realized on its sale or exchange (or the sale of the Property) (except to the extent that such profit represents gain attributable to unrealized receivables or depreciation recapture taxable as ordinary income or at a 25% federal tax rate) will be treated as capital gain or loss under the Code. Any such capital gain attributable to an asset held more than 12 months will generally be taxed to individuals at the highest applicable long term capital gain tax rate.

In determining the amount realized on the sale or exchange of an Interest or the Property, a Purchaser must include, among other things, the Purchaser's share of assumed indebtedness on the Property. Therefore, it is possible that the gain realized upon the sale of an Interest or the Property may exceed the cash proceeds of the sale, and, in some cases, the income taxes payable with respect to the gain realized on the sale may exceed such cash proceeds. If assets sold or involuntarily converted constitute an asset under Code Section 1231, gain or loss attributable to such asset would be combined with any other Code Section 1231 gains or losses realized by the Purchaser in that year, and the resulting net Code Section 1231 gains or losses would be taxed as capital gains or constitute ordinary losses, as the case may be. This treatment may be altered depending on the disposition of Code Section 1231 assets over several years. In general, net Code Section 1231 gains are recaptured as ordinary income to the extent of net Code Section 1231 losses in the five preceding taxable years.

Tax Impact of Sale of the Property. If the Property is sold or otherwise disposed of in a taxable transaction, the Purchasers will likely recognize taxable income. A Purchaser will have taxable income to the extent that the amount realized by such Purchaser exceeds its tax basis in its Interests. In addition, the Medicare Tax is likely to apply to any net gain realized on a taxable disposition of the Property.

Taxable Income. It is expected that a Purchaser's Interests will generate annual taxable income in excess of the cash distributable to such Purchaser. Although such taxable income can be offset by depreciation deductions, the amounts of such depreciation deductions may be limited since the tax basis of such property received in a Section 1031 Exchange is generally the same as the tax basis of the property exchanged. Therefore, if a Purchaser has a low tax basis in the Relinquished Property exchanged in a proposed Section 1031 Exchange, such Purchaser will have a low tax basis in its Interests, and its depreciation deductions will be less than a purchase not structured as a Section 1031 Exchange.

Treatment of Gifts of Interests. Generally, no gain or loss is recognized for federal income tax purposes as a result of a gift of property. However, if a gift (including a charitable contribution) of an Interest is made at a time when the Purchaser's share of the Property's non-recourse indebtedness exceeds the adjusted basis of the Purchaser in its Interest, the Purchaser may recognize gain for income tax purposes upon the transfer, in the amount of the excess. Such gain, if any, will generally be treated as capital gain. Gifts of Interests may also be subject to a gift tax imposed under the rules generally applicable to all gifts of property.

Foreclosure / Cancellation of Debt Income. In the event of a foreclosure of a mortgage or deed of trust on the Property, a Purchaser would realize gain, if any, in an amount equal to the excess of the Purchaser's share of the outstanding mortgage over its adjusted tax basis in the Property, even though the Purchaser might realize an economic loss upon such a foreclosure. In addition, the Purchaser could be required to pay income taxes with respect to such gain even though the Purchaser may receive no cash distributions as a result of such foreclosure.

If Property debt were to be cancelled without an accompanying foreclosure of the Property, then a Purchaser could have to recognize cancellation of debt income (subject to the applicability of one or more of the cancellation of debt exclusions, in which event such exclusion(s) might constitute only a "deferral" of such income effectuated by the Purchaser's reduction of tax attributes – including tax basis), which would be taxed as ordinary income, for federal income tax purposes. Also, the Purchaser would not be able to offset any such cancellation of debt income with any loss recognized by a Purchaser that would constitute a capital loss for federal income tax purposes (including any loss recognized by a Purchaser from the sale of its Interest in the likely event that the Interest could not be considered real property held by Purchaser for more than one year and used by Purchaser in a trade or business under Code Section 1231).

Tax Elections. The Sponsor will attempt to structure the Interests so that they will be treated as interests in an investment trust and not as interests in a partnership. As a result, the Purchasers, rather than the Trust, will be required to make any applicable tax elections. However, if the Purchasers were treated as partners in a partnership, applicable elections would have to be made by the partnership. No mechanism is provided for the Trust to make any such elections.

Method of Accounting. A Purchaser will be required to report income under the Purchaser's applicable accounting method.

Alternative Minimum Tax. Taxpayers may be subject to the alternative minimum tax in lieu of the regular federal income tax. The alternative minimum tax applies to the taxable income increased by designated tax preferences. Each Purchaser should consult with its tax advisor concerning the impact, if any, of the alternative minimum tax on the Purchaser.

The Medicare Tax. Income and gain from passive activities may be subject to the Medicare Tax. Certain Purchasers who are U.S. individuals are subject to the Medicare Tax, an additional 3.8% tax on their "net investment income" and certain estates and trusts are subject to an additional 3.8% tax on their undistributed "net investment income." Among other items, "net investment income" generally includes passive investment income, such as rent and net gain from the disposition of investment property, *less* certain deductions. Prospective Purchasers should consult their tax advisors with respect to the tax consequences to them of the rules described above.

Activities Not Engaged in for Profit. Under Code Section 183, certain losses from activities not engaged in for profit are not allowed as deductions from other income. The determination of whether an activity is engaged in for profit is based on all the facts and circumstances, and no one factor is determinative, although the Treasury Regulations indicate that an expectation of profit from the disposition of property will qualify as a profit motive. Code Section 183 has a presumption that an activity is engaged in for profit if income exceeds deductions in at least three out of five consecutive years. Although it is reasonable for a Purchaser to conclude that the Purchaser can realize a profit from an investment in an Interest as a result of cash flow and appreciation of the Property, there can be no assurance that a Purchaser will be found to be engaged in an activity for profit because the applicable test is based on the facts and circumstances existing from time to time.

Limitation on Losses under the At-Risk Rules. A Purchaser that is an individual or closely held corporation will be unable to deduct losses from the Property, if any, to the extent such losses exceed the amount with respect to which such Purchaser is considered "at risk." A Purchaser's initial amount at risk will generally equal the sum of (i) the amount of cash paid for the Interest, (ii) the amount, if any, of recourse financing obtained by the Purchaser to acquire its Interest and (iii) the amount of any qualified non-recourse indebtedness encumbering the Property. A Purchaser's amount at risk will be reduced by the amount of any cash flow to such Purchaser and the amount of the Purchaser's loss, and will be increased by the amount of the Purchaser's income from the activity. Losses not allowed under the at-risk provisions may be carried forward to subsequent taxable years and used when the amount at risk increases. Tax Counsel will issue no opinion concerning the application of the at-risk rules to owners of Interests.

General Limitations on the Deductibility of Interest. In addition to the limitations on the deductibility of interest incurred in connection with passive activities, and the "at-risk" rules, the following are additional restrictions on the deduction of interest:

Capitalized Interest. Interest on debt incurred to finance construction of real property is not currently deductible and must be capitalized as part of the cost of the real property.

Interest Incurred to Carry Tax-Exempt Securities. Code Section 265(a)(2) disallows any deductions for interest paid by a taxpayer on indebtedness incurred or continued for the purpose of buying or carrying tax-exempt obligations. The application of Code Section 265(a)(2) turns on each Purchaser's purpose for acquiring an Interest. Thus, Code Section 265(a)(2) might be applied to a Purchaser whose purpose for investing in an Interest rather than in a non-leveraged investment is to enable such Purchaser to continue to carry tax-exempt obligations. It should be noted that Code Section 7701(f) directs the IRS to prescribe regulations as may be necessary or appropriate to prevent the avoidance of provisions of the Code that deal with the linking of borrowings to investments through the use of related persons, pass-through entities or other intermediaries. Therefore, the provisions of Code Section 265(a)(2) may be applied to a Purchaser if the Purchaser does not itself own tax-exempt obligations or stock of a regulated investment company that distributes exempt interest dividends but rather such obligations or stock are owned by a person, entity or other intermediary related to the Purchaser.

Prepaid Interest. Interest prepayments (including "points") must be capitalized and amortized over the life of the loan with respect to which they are paid.

Limitation on Excess Business Loss Deduction. Under current law, excess business losses of a taxpayer other than a corporation are not allowed for the taxable year. This limitation currently applies for taxable years beginning after December 31, 2020, and before January 1, 2029. Such losses are carried forward and treated as part of the taxpayer's net operating loss carryforward in subsequent taxable years. An excess business loss for the taxable year is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount. The threshold amount, which is indexed for inflation, is $313,000 for 2025 and $256,000 for 2026 (or twice the applicable threshold amount in the case of a joint return). The provision applies after the application of the passive loss rules, and applies at the partner or shareholder level in the case of a partnership or S corporation.

Limit on Business Interest Deductions. Code Section 163(j) limits annual deductions for "business interest" expense to the sum of business interest income plus 30% of "adjusted taxable income" or ATI (plus certain floor plan financing interest of the taxpayer relating to financing the acquisition of motor vehicles held for sale or lease). Business interest in excess of the allowed current deduction may be carried forward indefinitely. The adjusted taxable income or ATI of a taxpayer means taxable income computed without regard to any item not properly allocable to a trade or business, any business interest income or expense, any net operating loss deduction, any deduction allowable for depreciation, amortization, and depletion, and certain other items. Under previous law, taxpayers were not permitted to include depreciation, amortization, and depletion in determining a taxpayer's ATI for taxable years beginning after December 31, 2024. Accordingly, for taxable years beginning after December 31, 2024, interest deductions for taxpayers with average annual gross receipts in excess of $31 million for taxable years beginning in 2025 and $32 million for taxable years beginning in 2026 (and subject to an annual inflation adjustment) are generally deferred to the extent that annual business interest expense exceeds business interest income plus 30% of ATI, subject to certain adjustments. However, the OBBBA also established a new ordering rule requiring that the Code Section 163(j) limitation be determined before the application of any interest capitalization provisions, except for interest capitalized under Sections 263A and 263(g), which may impact the availability of Code Section 163(j) business interest deductions for certain taxpayers.

Business interest means any interest paid or accrued on indebtedness properly allocable to a trade or business, provided that investment interest (within the meaning of Code Section 163(d)) does not constitute business interest. For this purpose, a trade or business does not include the trade or business of performing services as an employee or any electing real property trade or business (or any electing farming business or certain regulated utility businesses). A real property trade or business is any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing or brokerage trade or business.

To take advantage of this exception, a taxpayer must make an irrevocable election to be excluded from Code Section 163(j) and forego or limit certain other tax benefits. An election by a real property trade or business is to be made at such time and in such manner as the IRS will prescribe and once made, is irrevocable. An electing real property trade or business is required to use the alternative depreciation system for any non-residential real property (which would then be depreciable by the straight-line method over 40 years) or residential rental property (which would then be depreciable by the straight-line method over 30 years), or for certain improvements to an interior portion of a building which is non-residential real property (which would then be depreciable by the straight-line method over

20 years). Revenue Procedure 2020-22 provides election relief for taxpayers to, retroactively, either make or withdraw the real estate trade or business elections with respect to this limitation. Each prospective Purchaser should consult with its tax advisor concerning the possible application of Code Section 163(j) to his, her or its particular circumstances.

Tax Liability in Excess of Cash Distributions. It is possible that a Purchaser's tax liability resulting from its Interest will exceed its share of cash distributions from the Trust. This may occur, for example, because cash flow from the Property may be used to fund non-deductible operating or capital expenses of the Property or reserves. In addition, as discussed above, in the event the Master Tenant elects to defer payments of rent, Purchasers may be required to recognize rental income in a year prior to the year in which such rental income is actually paid, in addition to imputed interest income on such amounts. *See "Section 467 Rent Allocation"* above. Thus, there may be years in which a Purchaser's tax liability exceeds its share of cash distributions from the Trust, in which case a Purchaser would have to use funds from other sources to satisfy its tax liability. The same tax consequences may result from a sale or transfer of an Interest, whether voluntary or involuntary, that gives rise to ordinary income or capital gain.

Accuracy-Related Penalties and Penalties for the Failure to Disclose. The Code provides for penalties relating to the accuracy of tax returns equal to 20% of the portion of the understatement to which the penalty applies. The Code provides that penalties are applied to any portion of any understatement that was attributable to: (i) negligence or disregard of rules or regulations; (ii) any substantial understatement of income tax; or (iii) any substantial valuation misstatement. The penalty is increased to 40% in the case of an understatement which is attributable to one or more "nondisclosed noneconomic substance" transactions or a misstatement in the value of any property (or its adjusted basis) of 200% or more (a "**Gross Valuation Misstatement**"). A 20% accuracy-related penalty is imposed on (i) listed or (ii) reportable transactions having a significant tax avoidance purpose. This penalty is increased to 30% if the transaction is not properly disclosed on the taxpayer's federal income tax return. Failure to disclose such a transaction can also prevent the applicable statute of limitations from running in certain circumstances and can subject the taxpayer to additional disclosure penalties ranging from $10,000 to $200,000, depending on the facts of the transaction. Any interest attributable to unpaid taxes associated with a non-disclosed reportable transaction may not be deductible for federal income tax purposes.

Negligence is generally any failure to make a reasonable attempt to comply with the provisions of the Code and the term "disregard" includes careless, reckless or intentional disregard.

A substantial understatement of income tax generally occurs if the amount of the understatement for the taxable year exceeds the greater of (i) 10% of the tax required to be shown on the return for the taxable year or (ii) $5,000 ($10,000 in the case of a C corporation). The 10% threshold is reduced to 5.0% for taxpayers claiming the deduction for "qualified business income" under Code Section 199A.

A substantial valuation misstatement occurs if the value of any property (or the adjusted basis) is 150% or more of the amount determined to be the correct valuation or adjusted basis. The penalty doubles if the property's valuation is misstated by 200% or more. No penalty will be imposed unless the underpayment attributable to the substantial valuation misstatement exceeds $5,000 ($10,000 in the case of a C corporation). For a C corporation, a substantial understatement generally occurs if the amount of the understatement exceeds the lesser of: (i) 10% of the tax required to be shown on the return for that tax year (or $10,000, if that is greater); or (ii) $10,000,000.

The term reportable transaction means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under Code Section 6011, such transaction is of a type which the IRS determines as having a potential for tax avoidance or evasion.

The term listed transaction means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the IRS as a tax avoidance transaction for purposes of Code Section 6011.

Except with respect to "tax shelters," an accuracy-related penalty will not be imposed on an underpayment attributable to negligence, a substantial understatement of income tax or a substantial valuation misstatement if it is shown that there was a reasonable cause for the underpayment and the taxpayer acted in good faith. A "tax shelter" includes a partnership if a significant purpose of the partnership is the avoidance or evasion of tax. In addition, an accuracy-related penalty will not be imposed on a reportable transaction or a listed transaction if it is shown that: (i) there is reasonable cause for the position, (ii) the taxpayer acted in good faith, (iii) the relevant facts of the transaction are adequately disclosed in accordance with the regulations prescribed under Code Section 6011, (iv) there is or was substantial authority for such treatment and (v) the taxpayer reasonably believed that such treatment was more likely than not correct. The reasonable cause exception does not apply to any portion of an underpayment that is attributable

to one or more transactions that lack "economic substance." Economic substance is deemed to exist where a transaction changes in a meaningful way (apart from federal income tax effects) a taxpayer's economic position and the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction.

Reportable Transaction Disclosure and List Maintenance. A taxpayer's ability to claim privilege on any communication with a federally authorized tax preparer involving a tax shelter is limited. In addition, taxpayers and material advisors must comply with disclosure and list maintenance requirements for reportable transactions. Sponsor and Tax Counsel have concluded that the sale of an Interest should not constitute a reportable transaction.

Accordingly, the Sponsor and Tax Counsel do not intend to make any filings pursuant to these disclosure or list maintenance requirements. There can be no assurances that the IRS will agree with this determination by the Sponsor and Tax Counsel. Significant penalties could apply if a party fails to comply with these rules and such rules are ultimately determined to be applicable.

Codification of Economic Substance Doctrine (Code Section 7701(o)). In 2010, Congress codified the existing "economic substance doctrine" creating a new penalty equal to 20% of the portion of any underpayment attributable to the fact that a transaction lacks economic substance. The penalty increases to 40% if the transaction is not adequately disclosed and is imposed on a strict liability basis (i.e., the taxpayer may not avoid the penalty by demonstrating that their position was supported by substantial authority or that the taxpayer reasonably relied on advice from a tax advisor). The economic substance doctrine applies only if it is relevant to a transaction and determination of whether the economic substance doctrine is relevant to a transaction will be made in the same manner as if the doctrine had never been codified. In the case of any transaction to which the economic substance doctrine is relevant, the transaction is treated as having economic substance if (i) the transaction changes in a meaningful way (apart from federal income tax effects) the taxpayer's economic position and (ii) the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction. In rendering its opinion, Tax Counsel has concluded that the economic substance doctrine should not apply and should not alter the tax consequences described in this opinion. There can be no assurance, however, that the IRS would agree.

State and Local Taxes. In addition to the federal income tax consequences described above, each prospective Purchaser should consider the state and local tax consequences of an investment in an Interest. A Purchaser's share of income or loss generally will be required to be included in determining its reportable income for state and local tax purposes. Under current law, an individual or married filers may deduct up to $40,000 of combined state and local income and property taxes for the 2025 taxable year. This deduction is subject to phase-outs that decrease its value for filers that exceed certain income thresholds. For each year after 2025, the maximum deductible state and local income and property taxes increase by 1% (so $40,400 for the 2026 taxable year). Then, the maximum deductible state and local income and property taxes decrease to $10,000 for any taxable year beginning after 2029. Taxes attributable to income earned from the Interests should count towards the applicable limitation described in the foregoing sentences. If the Beneficial Owners acquire Units, the Beneficial Owners may be required to file state income tax returns in all of the states where the applicable exchanging entity or exchanging entities own properties. A prospective Purchaser must seek the advice of its own independent tax advisor as to state and local tax issues.

Changes in Federal Income Tax Law. The discussion of tax aspects contained in this Memorandum is based on law presently in effect and certain proposed Treasury Regulations. Nonetheless, prospective Purchasers should be aware that new administrative, legislative or judicial action could significantly change the tax aspects of an investment in an Interest. Any such change may or may not be retroactive with respect to transactions entered into or contemplated before the effective date of such change and could have a material adverse effect on an investment in an Interest.

The rules dealing with federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the Treasury, resulting in revisions of resolutions and revised interpretations of established concepts as well as statutory changes. In particular, the OBBBA made many significant changes to the federal income tax laws. To date, the IRS has issued only limited guidance with respect to certain of the new provisions, and there are numerous interpretive issues that will require guidance. It is highly likely that technical corrections legislation will be needed to clarify certain aspects of the new laws and give proper effect to Congressional intent. There can be no assurance, however, that technical clarifications or changes needed to prevent unintended or unforeseen tax consequences will be enacted by Congress in the near future.

Prospective Purchasers should note that a number of issues discussed in this Memorandum have not been definitively resolved by statutes, regulations, rulings or judicial opinions. Accordingly, no assurances can be given that the conclusions expressed herein will be accepted by the IRS, or, if contested, would be sustained by a court, or

that legislative changes or administrative pronouncements or court decisions may not be forthcoming that would significantly alter or modify the conclusions expressed herein, with possibly retroactive effect. Each Purchaser must consult its own tax counsel about the tax consequences of an investment in an Interest.

The opinion and discussion are written to support the promotion or marketing of a particular transaction, and each Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor.

Role of Baker & McKenzie LLP as Tax Counsel. Baker & McKenzie LLP, Tax Counsel, has acted solely as federal income tax counsel, securities counsel and finance co-counsel with respect to the Offering, and has not acted as real estate counsel or in any other capacity with respect to the Offering. Tax Counsel's tax opinion and advice to the Sponsor relates solely to federal income tax issues, and does not include advice on state or local income tax issues, property taxes, transfer taxes, stamp duty, lease tax or other non-income taxes, or any other non-tax issues. Tax Counsel does not represent the prospective Purchasers. Prospective Purchasers seeking legal advice should retain their own counsel, consult their own advisors about an investment in the Interests and conduct any due diligence they deem appropriate to verify the accuracy of the representations or information in this Memorandum.

Please note that any discussions of federal income tax matters set forth in this Memorandum have been written solely to support the marketing of the Interests. All prospective Purchasers must consult their own independent legal, tax, accounting and financial advisors regarding the federal income tax consequences of investing in the Interests in the context of their own particular circumstances, and must represent that they have done so as a condition to investing in the Interests.

PROSPECTIVE PURCHASERS SHOULD NOTE THAT A NUMBER OF ISSUES DISCUSSED IN THIS MEMORANDUM HAVE NOT BEEN DEFINITIVELY RESOLVED BY STATUTES, REGULATIONS, RULINGS OR JUDICIAL OPINIONS. ACCORDINGLY, NO ASSURANCES CAN BE GIVEN THAT THE CONCLUSIONS EXPRESSED HEREIN WILL BE ACCEPTED BY THE IRS, OR, IF CONTESTED, WOULD BE SUSTAINED BY A COURT, OR THAT LEGISLATIVE CHANGES OR ADMINISTRATIVE PRONOUNCEMENTS OR COURT DECISIONS MAY NOT BE FORTHCOMING THAT WOULD SIGNIFICANTLY ALTER OR MODIFY THE CONCLUSIONS EXPRESSED HEREIN. EACH PURCHASER MUST CONSULT HIS, HER OR ITS OWN TAX COUNSEL ABOUT THE TAX CONSEQUENCES OF AN INVESTMENT IN AN INTEREST. THE OPINION AND DISCUSSION ARE WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF A PARTICULAR TRANSACTION, AND EACH PURCHASER SHOULD SEEK ADVICE BASED ON THE PURCHASER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

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PLAN OF DISTRIBUTION

General

Subject to the terms and conditions set forth in this Memorandum and the Trust Agreement, the Trust is offering a maximum of $40,178,939 of Interests (i.e., the Maximum Offering Amount), which, if sold in full, will represent 100% of the outstanding beneficial ownership interests issued by the Trust. Each Purchaser must pay cash for its Interests. The Interests may be purchased only by prospective Purchasers who satisfy the investor suitability requirements. *See "Who May Invest."*

Marketing of Interests

The Trust will offer the Interests on a "best efforts" basis through the Managing Broker-Dealer and through other Selling Group Members. The Managing Broker-Dealer will use commercially reasonable efforts to engage and retain Participating Broker-Dealers to offer and sell the Class 1 Beneficial Interests. The Class 1 Beneficial Interests will be offered and sold only by the Managing Broker-Dealer and the Selling Group Members; *provided*, *however*, that (i) each Participating Broker-Dealer whom the Managing Broker-Dealer retains will represent to the Managing Broker-Dealer that it is (a) duly registered as a broker-dealer pursuant to the provisions of the Exchange Act and a member of FINRA in good standing and (b) duly licensed or registered by the regulatory authorities in the jurisdictions in which they will offer and sell the Class 1 Beneficial Interests, as set forth in an executed Participating Broker-Dealer Agreement between such Participating Broker-Dealer and the Managing Broker-Dealer and (ii) all such engagements of Participating Broker-Dealers are evidenced by written agreements, the terms and conditions of which substantially conform to the Participating Broker-Dealer Agreement, subject to any reasonable adjustments as determined in the sole discretion of the Managing Broker-Dealer.

The Managing Broker-Dealer will receive Sales Commissions of up to 6% of Total Sales, which it will re-allow to the Participating Broker-Dealers. The Managing Broker-Dealer will also receive a Managing Broker-Dealer Fee of up to 2% of the Total Sales; Marketing and Due Diligence Expense Allowances of up to 1% of the Total Sales, which may be re-allowed in whole or in part to Participating Broker-Dealers; and a Wholesaling Fee of up to 1% of the Total Sales. The Trust, and therefore each Purchaser holding Class 1 Beneficial Interests, will be responsible for its pro-rata share of the Trust's Organization and Offering Expenses on a non-accountable basis of up to 0.5% of the Offering proceeds. The total aggregate amount of Organization and Offering Expenses, Sales Commissions, Marketing and Due Diligence Expense Allowances, the Managing Broker-Dealer Fee, and the Wholesaling Fee will not exceed 10.5% of the Total Sales. *See "Estimated Use of Proceeds."*

The Trust may, in its sole and absolute discretion, accept purchases of Interests net of all or a portion of the Sales Commissions otherwise payable from Purchasers purchasing through a RIA with whom the Purchaser has agreed to pay a fee for investment advisory services in lieu of commissions, and affiliates of the Trust, including the Sponsor, may purchase the Interests net of Sales Commissions.

The Trust, the Sponsor, or other persons related to or affiliated with them, or other broker-dealers may purchase Interests on the same terms and conditions as any other Purchaser. Any such Purchaser may subsequently transfer Interests so acquired by them on the same terms and conditions as any other Purchaser.

The Trust and each broker-dealer participating in an Offering will agree to indemnify each other against certain liabilities including liabilities under the Securities Act or the Exchange Act, as amended, and state securities laws.

The Trust reserves the unconditional right to cancel or modify the Offering, to reject purchases of Interests in whole or in part, to waive conditions to the purchase of Interests and to allow purchases of less than the minimum purchase amount.

Subscription Period

The Trust may hold Closings at any time after subscriptions for Interests have been received by the Trust. Interests will continue to be sold and Closings may from time to time be conducted with respect to additional Interests sold until the Maximum Offering Amount of Interests is sold or, if earlier, until March 31, 2027. The Offering Termination Date may be extended at the Manager's sole and absolute discretion. There is no assurance that all of the Interests will be sold.

Broker-Dealer Disqualifying Events

The Interests will be offered and sold pursuant to an exemption from the registration requirements of the Securities Act, in accordance with Rule 506(c) of Regulation D, and in compliance with any applicable state securities laws. Effective September 23, 2013, the SEC adopted amendments to Rule 506 requiring certain disclosures to customers in connection with Regulation D private placement offerings, which includes this Offering. Specifically, the amendments require that the Trust notify you if the broker-dealers selling Interests in this Offering have experienced certain specified "disqualifying events," including certain criminal convictions, certain court injunctions and restraining orders, final orders of certain state and federal regulators and certain SEC disciplinary orders and SEC cease-and-desist orders, among other events.

The Managing Broker-Dealer utilizes a group of market participants, including brokers (each, a "**Selling Broker**") and investment advisers to place and advise on the Interests. Selling Brokers are third parties and not engaged to act as agents of the Trust. These persons and entities are compensated by the Managing Broker-Dealer, who has been compensated by the Trust. As of the date of this Memorandum, no Selling Brokers that may sell Interests in this Offering have informed the Trust and the Managing Broker-Dealer that they have been subject to any "disqualifying events" under Rule 506. The Trust will be required to provide this information to you in the event any "disqualifying events" are identified with respect to any Selling Brokers.

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WHO MAY INVEST

We will offer and sell the Interests in reliance on an exemption from the registration requirements of the Securities Act and state securities laws. Accordingly, distribution of this Memorandum has been strictly limited to persons who meet the requirements and make the representations set forth below. We reserve the right, in our sole and absolute discretion, to reject any subscription based on any information that may become known or available to us about the suitability of a prospective Purchaser or for any other reason.

An investment in the Interests involves a high degree of risk and is suitable only for persons of substantial financial means who have no need for liquidity in this investment. Only Purchasers who (i) purchase the minimum Interest amount as set forth in this Memorandum, and (ii) represent in writing that they meet the investor suitability requirements set by us and as may be required under federal or state law, may acquire Interests. The written representations you make will be reviewed to determine your suitability.

The investor suitability requirements stated below represent minimum suitability requirements established by the Sponsor for Purchasers of the Interests. However, your satisfaction of these requirements will not necessarily mean that the Interests are a suitable investment for you, or that we will accept you as a Purchaser of Interests. Furthermore, we may modify such requirements in our sole and absolute discretion, and such modifications may raise the suitability requirements for Purchasers.

You must represent in writing that you meet, among others, all of the following requirements:

(a) You have received, read and fully understand this Memorandum and are basing your decision to invest on the information contained in this Memorandum. You have relied only on the information contained in this Memorandum and have not relied on any representations made by any other person;

(b) You understand that an investment in the Interests is highly speculative and involves substantial risks and you are fully cognizant of and understand all of the risks relating to an investment in the Interests, including those risks discussed in the *"Risk Factors"* section of this Memorandum;

(c) Your overall commitment to investments that are not readily marketable is not disproportionate to your individual net worth, and your investment in the Interests will not cause such overall commitment to become excessive;

(d) You have adequate means of providing for your financial requirements, both current and anticipated, and have no need for liquidity in this investment;

(e) You can bear and are willing to accept the economic risk of losing your entire investment in the Interests;

(f) You are acquiring the Interests for your own account and for investment purposes only and have no present intention, agreement or arrangement for the distribution, transfer, assignment, resale or subdivision of the Interests;

(g) You have such knowledge and experience in financial and business matters that you are capable of evaluating the merits of investing in the Interests and have the ability to protect your own interests in connection with such investment;

(h) You are a U.S. Person for federal income tax purposes;

(i) You are an "accredited investor" as defined in Rule 501(a) of Regulation D under the Securities Act; and

(j) Neither you nor any of your affiliates, nor any of your respective members, partners, officers, directors or managers is a person or entity with whom U.S. persons or entities are restricted from doing business under (i) the PATRIOT Act; (ii) any other requirements contained in the OFAC rules and regulations (including any "blocked" person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other person or entity named on OFAC's Specially Designated Blocked Persons List); or (iii) any other U.S. statute, Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action.

For purposes of the foregoing, a "**Sanctioned Person**" means:

(X) a person named on the list of "specially designated nationals" or "blocked persons" maintained by the U.S. Office of Foreign Assets Control ("**OFAC**") at http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx, or as otherwise published from time to time, or

(Y) (i) an agency of the government of a Sanctioned Country, (ii) an organization controlled by a Sanctioned Country, or (iii) a person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

For purposes of the foregoing, a "**Sanctioned Country**" will mean a country subject to a sanctions program identified on the list maintained by OFAC and available at http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx, or as otherwise published from time to time.

For purposes of calculating your net worth, "net worth" means the excess of total assets at fair market value (including personal and real property, but excluding the estimated fair market value of a person's primary home) over total liabilities. Total liabilities exclude any mortgage on the primary home in an amount of up to the home's estimated fair market value as long as the mortgage was incurred more than 60 days before the securities were purchased, but includes (i) any mortgage amount in excess of the home's fair market value and (ii) any mortgage amount that was borrowed during the 60-day period before the closing date for the sale of securities for the purpose of investing in the securities. In the case of fiduciary accounts, the net worth and/or income suitability requirements must be satisfied by the beneficiary of the account, or by the fiduciary, if the fiduciary directly or indirectly provides funds for the purchase of the Interests.

Investment Not Suitable for Certain Persons and Entities

Interests are not suitable investments for (i) an employee benefit plan within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974 ("**ERISA**") that is subject to the fiduciary responsibility provisions of Title I of ERISA (a "**plan**"), a plan within the meaning of Code Section 4975(e)(1) that is subject to Code Section 4975 (also, a "plan"), including a qualified plan (any pension, profit sharing or stock bonus plan that is qualified under Code Section 401(a)) or an individual retirement account, (ii) any person that is directly or indirectly acquiring the Interest on behalf of, as investment manager of, as fiduciary of, as trustee of, or with assets of a plan (including any insurance company using assets in its general or separate account that may constitute assets of a plan), (iii) any other tax-exempt entity, or (iv) a foreign person. Therefore, this Memorandum does not discuss the risks that may be associated with an investment in an Interest by such plans, accounts, persons, entities or by a foreign person.

IF YOU DO NOT MEET THE REQUIREMENTS DESCRIBED ABOVE, IMMEDIATELY RETURN THIS MEMORANDUM TO US OR THE APPLICABLE SELLING GROUP MEMBER. IN THE EVENT YOU DO NOT MEET SUCH REQUIREMENTS, THIS MEMORANDUM WILL NOT CONSTITUTE AN OFFER TO SELL INTERESTS TO YOU.

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METHOD OF PURCHASE

If you are an "accredited investor" and, after carefully reading the entire Memorandum, would like to purchase an Interest, you must follow the procedures described below and in the Purchase Agreement.

To purchase an Interest, you must initially complete, execute and deliver to the Managing Broker-Dealer or your broker-dealer the Purchase Agreement attached hereto as **Exhibit G**, and other documents described in the Purchase Agreement. You will also be asked to confirm the availability of funds to you in the full amount of the purchase price for your Interests.

Upon receipt of the signed Purchase Agreement and verification of your investment qualifications, the Trust will decide whether to accept your investment. If, after review of your suitability, the Trust accepts your offer to purchase Interests, the Trust will send you various due diligence documents and closing documents for your review and/or execution.

A prospective Purchaser's Purchase Agreement will be terminated and his, her or its ACH or wired funds, if any, will be fully refunded by the Trust if (i) the conditions to closing set forth in the Purchase Agreement are not satisfied, or (ii) a prospective Purchaser is not accepted by the Trust. The Trust may accept or reject a prospective Purchaser's Purchase Agreement in its sole and absolute discretion. If the Trust does not accept a Purchase Agreement within 30 days of its submission then it will be deemed rejected. Any Prospective Purchaser seeking to acquire greater than 20% of the Maximum Offering Amount (i.e., $8,035,788) will be subject to additional Know Your Customer procedures as required by the Lender pursuant to the Loan Documents. In the event your Purchase Agreement is rejected, the full amount of any ACH or wired funds you have sent will be returned to you.

LITIGATION

The Sponsor and affiliates are subject to litigation from time to time, but in the opinion of the Sponsor, there are no actions pending against the Sponsor or its affiliates or their respective management members, or, to the knowledge of the Manager and Sponsor, contemplated, that, based on facts and circumstances, are expected to have a material adverse effect on the Trust, the Manager, the Sponsor or the Property, their financial condition or their operations.

OTHER DOCUMENTS

Copies of the documents referred to in this Memorandum or otherwise related to the Offering may be inspected at our office as set forth on the cover page hereof or upon your written request. The Purchase Agreement and the Trust Agreement as delivered are incorporated herein by reference.

REPORTS

The Manager will periodically prepare and furnish reports to each of the Beneficial Owners commensurate with similarly-situated investment vehicles. Such reports will include the amounts of rent received from the Master Tenant, the expenses incurred by the Trust with respect to the Property (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses), the amount of any reserves, and the amount of the distributions made by the Trust to the Beneficial Owners. In addition, the Trust will send to each Beneficial Owner such tax information as the Manager deems appropriate to assist the preparation of the Beneficial Owner's tax returns.

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EXHIBIT A

MASTER LEASE

[ATTACHED]

MASTER LEASE AGREEMENT

BETWEEN

FREX DB SERIES I DST,
a Delaware Statutory Trust

AS LANDLORD,

AND

FREX DB LEASECO SERIES I LLC
a Delaware Limited Liability Company

AS MASTER TENANT

DATED AS OF MARCH 11, 2026

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EXHIBITS:

EXHIBIT A – RENT A-1
EXHIBIT B – LEGAL DESCRIPTION OF THE LAND B-1
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MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT, made as of March 11, 2026 ("**Agreement**"), by and between FREX DB Series I DST, a Delaware statutory trust ("**Landlord**"), and FREX DB LeaseCo Series I LLC, a Delaware limited liability company ("**Master Tenant**").

1. Definitions.

"**Accrued Rent**" shall have the meaning set forth in Section 4.2.

"**Additional Rent**" shall have the meaning set forth in Section 4.1.2.

"**Additional Rent Breakpoint**" shall be the amounts as set forth on **Exhibit A** hereto under the heading Gross Revenue Additional Rent Breakpoint.

"**Agreement**" means this Master Lease Agreement, as amended.

"**Assignment and Subordination**" means that certain Assignment and Subordination of Master Lease and Consent of Master Tenant, dated as of even date herewith, by Master Tenant and Landlord in favor of Wells Fargo Bank, National Association.

"**Bankruptcy Code**" has the meaning set forth in Section 19.8

"**Base Rent**" has the meaning set forth in Section 4.1.1.

"**Base Term**" means a term beginning on the Commencement Date and expiring and ending on the Maturity Date (as defined in the Loan Agreement); *provided*, *however*, that for so long as any obligation remains outstanding under any of the Loan Documents, the Term of this Lease shall automatically extend and shall continue in full force and effect thereafter until all such obligations have been fully performed and satisfied.

"**Capital Expenditures**" means any improvements, replacements or material repairs with respect to or relating to the Project (or any portion thereof) which are properly capitalized (rather than expensed) in accordance with generally accepted accounting principles ("**GAAP**").

"**Capital Improvements**" mean the Capital Expenditures, but excluding Landlord Capital Improvements.

"**Cash Flow**" shall have the meaning set forth in Section 4.2.

"**Commencement Date**" means the date of this Agreement.

"**Condemnation Proceeding**" means any action or proceeding brought by competent authority for the purpose of any taking of the fee of the Project, including the Improvements, or any part thereof or estate therein as a result of the exercise of the power of eminent domain, including, but not limited to, a voluntary conveyance to such authority either under threat of or in lieu of condemnation or while such action or proceeding is pending.

"**Construction Management Agreement**" means that certain construction management agreement dated on or about even herewith between the Master Tenant and FREX DST Holdings LLC, a Delaware limited liability company for construction management services with respect to the Project.

"**Damages**" has the meaning set forth in Section 16.1.

"**Default**" has the meaning set forth in Section 20.1, after giving effect to all applicable notice and cure periods.

"**Default Rate**" means the lesser of (i) 5% per annum, or (ii) the highest interest rate per annum, permitted under the laws of the state(s) in which the Project is located, or under federal law, to the extent applicable.

"**DST**" means (i) a Delaware statutory trust as such term is defined under Delaware law, and (ii) an "investment trust" as defined in Treas. Reg. §301.7701-4(c).

"**Excess Uncontrollable Costs**" has the meaning set forth in Section 4.5.

"**Existing Obligations**" has the meaning set forth in Section 3.3.

"**Gross Revenues**" means the entire gross receipts of every kind and nature from rentals and services made in, upon, or from the Project, whether upon credit or for cash, in every department operating in the Project.

"**Hazardous Substances**" has the meaning set forth in Section 21.1.

"**Hazardous Substances Costs**" has the meaning set forth in Section 21.4.

"**Impositions**" means all taxes, assessments, charges for utilities not paid for by subtenants, excises, levies, license and permit fees and other governmental impositions and charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever, which are imposed, levied upon or assessed against or which arise with respect to the Project (or any portion thereof) or any rights or obligations of Master Tenant under this Agreement during the Term of this Agreement, including, but not limited to, any sums payable hereunder.

"**Improvements**" means all buildings, structures and other improvements of any and every kind or nature now or hereafter located on the Land. Such term shall include, without limitation, all fixtures now or hereafter attached or affixed, actually or constructively thereto, including, without limitation all pipes, engines, wiring, heating, ventilating and air-conditioning equipment and systems, plumbing and lighting fixtures, and other equipment or machinery used in or about or for the maintenance or operation of the Project. Such term shall not include any property owned by a Sublessee.

"**Insurance Costs**" means all premiums, deductibles, and other costs associated with insurance required under Section 8.

"**Intangible Property**" has the meaning set forth in Section 3.3.

"**Land**" means all of the tracts or parcels of land attributable to the addresses listed on **Exhibit B**, together with all rights, ways and easements appurtenant thereto.

"**Landlord**" means FREX DB Series I DST, a Delaware statutory trust, and its successors or assigns.

"**Landlord Capital Improvements**" means expenditures with respect to (1) repairs and replacements of the structure, foundations, roofs, exterior walls, parking lots and improvements to meet the needs of tenants; (2) leasing commissions; (3) certain Hazardous Substances Costs; (4) any repairs identified in the property condition assessment report, or similar engineering report, performed in connection with the acquisition of the Project; (5) other improvements or replacements to the Project that are required by law or have a useful life of over one year, and (6) other improvements or replacements with respect to the Project to the extent the cost thereof is permitted to be funded from the Loan proceeds or reserves under the Loan Documents.

"**Landlord Casualty Costs**" has the meaning set forth in Section 17.2.

"**Landlord Costs**" means Landlord Capital Improvements, as well as the costs to make repairs to maintain the Project.

"**Landlord Environmental Costs**" has the meaning given such term in Section 21.4.

"**Lender**" means any lender under a Permitted Mortgage, including, without limitation, Wells Fargo Bank, National Association and its successor and/or assigns.

"**Lender Requirements**" means all requirements set forth in the Loan Documents relating to Landlord, Master Tenant or the operation of the Project.

"**Loan**" means the Lender's Permitted Mortgage in the original principal amount of approximately $35,805,000.00, secured by the Permitted Mortgage and the Loan Documents.

"**Loan Documents**" means all loan documentation executed and delivered by or on behalf of Landlord or Master Tenant to a holder of a Permitted Mortgage.

"**Mandatory Expenses**" shall have the meaning set forth in Section 4.2.

"**Master Tenant**" means FREX DB LeaseCo Series I LLC, a Delaware limited liability company, and its successor or assigns.

"**Master Tenant Capital Reserve Account**" has the meaning set forth in Section 6.3.1.

"**Operating Costs**" means all costs and expenses (and taxes, if any, thereon) paid or incurred in respect of the operations, maintenance, management and security of the Project which, in accordance with generally accepted accounting principles are properly chargeable to the operation, maintenance, management and security of the Project, such as the cost of electricity, gas, oil, steam, water, air conditioning and other fuel and utilities, property management fees, reasonable attorneys' fees and disbursements and auditing, management and other professional fees and expenses. For the avoidance of doubt, Operating Costs does not include Rent.

"**PCB**" has the meaning set forth in Section 21.2.

"**Permitted Mortgage**" means any mortgage, deed of trust or other similar document placed on the Project by Landlord in compliance with the terms of this Agreement, it being acknowledged that the Security Agreement (as defined in the Loan Documents) dated as of the date hereof made by Landlord in favor of Wells Fargo Bank, National Association and its successor and/or assigns, as the same may be amended, restated or modified from time to time, shall be a Permitted Mortgage.

"**Project**" means the Land and the Improvements.

"**Projected Uncontrollable Costs**" means the projected or expected Uncontrollable Costs.

"**Projections**" means the financial forecast for the Project attached as **Exhibit C** hereto.

"**Property Management Agreement**" means any agreement for the management of the Project.

"**Property Management Fee**" means any Property Management Fee under any Property Management Agreement.

"**Remedial Work**" has the meaning set forth in Section 21.5.

"**Rent**" means, collectively, Base Rent, Additional Rent, Supplemental Rent, and any other amounts payable by Master Tenant to (or on behalf of) Landlord hereunder.

"**Requirements**" means all requirements relating to the Project, including without limitation, planning, zoning, subdivision, environmental, toxic and hazardous waste, health, fire safety, handicapped access and any other applicable federal, state and local statutes, laws, ordinances, rules and regulations, as well as any and all encumbrances, covenants, conditions, and restrictions, foreseen or unforeseen, ordinary as well as extraordinary, which may affect the design, construction, existence or use or manner of use of the Project or any portion thereof.

"**Restoration**" means the restoration, repair, replacement, rebuilding or alteration of the Project following a casualty or a partial Taking (including, without limitation, the cost of all temporary repairs for the protection of property pending the completion of permanent restoration, repair, replacement, rebuilding or alterations), to a complete architectural unit of as nearly as possible the same value, condition and character that existed immediately prior to such casualty or Taking, to the extent permissible under applicable Requirements, including, without limitation, all zoning and use requirements and regulations.

"**Service Contracts**" has the meaning set forth in Section 3.3.

"**Springing LLC**" shall mean the limited liability company participating in the Transfer Distribution (as such term is defined in that certain Amended and Restated Trust Agreement of FREX DB Series I DST).

"**Sublease**" means any lease or sublease of any or all of the Project permitted pursuant to the terms of this Agreement including, but not limited to, the Existing Obligations.

"**Sublessee**" means any lessee or sublessee of the Project under a Sublease.

"**Successor Landlord**" has the meaning set forth in Section 19.9.

"**Supplemental Rent**" shall have the meaning set forth in Section 4.1.3.

"**Supplemental Rent Breakpoint**" shall be the amounts as set forth on **Exhibit A** hereto under the heading Gross Revenue Supplemental Rent Breakpoint.

"**Supplemental Trust Reserve**" has the meaning set forth in Section 6.3.2.

"**Taking**" means the event of vesting of title to the Project or any part thereof or estate therein in the condemning authority as the result of any Condemnation Proceeding.

"**Term**" means a term beginning on the Commencement Date and expiring on the tenth (10th) anniversary of the Commencement Date.

"**TI Monthly Reimbursement**" has the meaning set forth in Section 4.6.

"**Uncontrollable Costs**" means the cost of utility service provided to the Project, snow and ice removal, other unusual weather-related costs (such as costs related to flood, hurricane, tornado, etc.), the costs of complying with governmental requirements, and increased costs due to unionization.

"**Use**" means use of the Project for any purpose permitted by law.

"**Vesting Date**" means the date of any Taking.

2. Lease. Landlord hereby leases to Master Tenant and Master Tenant hereby leases from Landlord subject to the terms set forth in this Agreement, the Project together with all Improvements, all appurtenances pertaining to the Project and all rights of ingress and egress. Landlord shall deliver possession of the Project to Master Tenant on the Commencement Date.

3. Project and Term of Agreement.

3.1 The Term of this Agreement shall be for the Base Term unless sooner terminated pursuant to the terms of this Agreement.

3.2 Master Tenant hereby accepts the Project without any representation or warranty by Landlord, express or implied in fact or by law, and expressly without recourse to Landlord as to title to the Project, the nature, the physical condition, suitability or usability thereof. Master Tenant shall take the Project in an "As Is" condition as of the Commencement Date.

3.3 The parties hereto acknowledge that the Project or portions thereof are presently the subject of i) leases, subleases, tenancies, licenses, easements, occupancies and rights of others, other than those established hereby, which relate to the use of the Project or any portion thereof (collectively, the "**Existing Obligations**") and ii) service contracts, which relate to the Project (collectively, the "**Service Contracts**"). Landlord hereby assigns and transfers to Master Tenant, to the extent transferable, as of the Commencement Date and for the Term of this Agreement, all of Landlord's rights, duties and obligations under the Existing Obligations and the Service Contracts, including, without limitation, the right to collect rents and other charges under the Existing Obligations and to enforce the terms of the Existing Obligations and the Service Contracts, and all of Landlord's rights and interest in and to any intangible property relating to the Project, including, without limitation, all trade names and trademarks (collectively, the "**Intangible Property**"). Master Tenant does hereby undertake, covenant and agree for and during the Term of this Agreement, to do, perform and discharge any and all rights, duties and obligations in connection with matters affecting the Existing Obligations, the Service Contracts, the Intangible Property, the possession of the Project or the title thereto which Landlord might otherwise have incurred during the Term of this Agreement by reason of the Existing Obligations, the Service Contracts, the Intangible Property or the ownership of the Project by Landlord, subject, nevertheless to the terms of this Agreement. Subject to the express terms, provisions and limitations set forth in this Agreement, Master Tenant shall indemnify, protect, defend and hold Landlord harmless from and against any and all liability, damage, loss, cost or expense (including reasonable attorneys' fees and expenses) actually suffered or incurred by Landlord in direct connection with any or all of the Existing Obligations, the Service Contracts, the Intangible Property or the ownership of the Project arising or first accruing during the Term of this Agreement; *provided*, *however*, that such indemnity shall not be applicable with respect to any liability, damage, loss, cost or expense suffered or incurred by Landlord as a result of, or due to, any negligent or willful act or omission of Landlord or its owners, agents, employees, officers, directors, managers, members and partners. Master Tenant's obligations under this Section shall, as to matters arising, or accruing from facts arising, prior to the termination or expiration of this Agreement, survive the termination of this Agreement. To the extent Landlord is required by the purchase agreement applicable to the acquisition of the Project to remit any rent to the seller, then Master Tenant shall remit such rents to the seller and Master Tenant shall be entitled to any remittances from the seller to Landlord.

3.4 Landlord makes no warranty or representation, express or implied with respect to the Project or the condition thereof, it being agreed that all risks incident thereto are to be borne by Master Tenant. To the extent assignable, Landlord hereby assigns to Master Tenant during the Term of this Agreement all representations and warranties obtained by Landlord upon acquisition of the Project, and any indemnities, third party warranties, guaranties (environmental or otherwise) or rights to receive payment in favor of Landlord, or transferred to Landlord regarding the Project obtained by Landlord upon acquisition of the Project, to the extent such representations, warranties, indemnities, third party warranties, guaranties and rights to receive payment survive the closing of the purchase of the Project, and to the extent the same survive the closing, but are not assignable by Landlord, Landlord hereby agrees, at Master Tenant's request and at Master Tenant's sole cost and expense, to promptly raise and diligently pursue (in a manner and pursuant to a strategy directed by Master Tenant) claims against the seller of the Project or any other applicable party regarding such representations, warranties, indemnities, third party warranties, guaranties

and rights to receive payment. In the event that Master Tenant fails to pursue or enforce any right or remedy available to Master Tenant under the purchase agreement, Landlord may, following written notice to Master Tenant, pursue any such claims at its own expense.

3.5 This Agreement is intended to be and shall be construed as a net lease, pursuant to which Landlord shall not be expected or required to make any payment of any kind or be under any obligation or liability except for Landlord Costs or as otherwise expressly set forth herein. Landlord and Master Tenant agree that this Agreement is a true lease and does not represent a financing arrangement, joint venture, management arrangement, or any arrangement other than a true lease. Each party shall reflect the transactions represented by this Agreement in all applicable books, records and reports (including, without limitation, income tax filings) in a manner consistent with "true lease" treatment. Notwithstanding any law to the contrary, and except as otherwise expressly set forth herein: i) this Agreement shall not be terminable by Master Tenant and Master Tenant waives all rights, if any, conferred upon Master Tenant by any statute, decree, order or otherwise to terminate or surrender this Agreement; ii) Master Tenant shall not be entitled to accept and waives all rights, if any, conferred upon Master Tenant by any statute, decree, order or otherwise to any abatement, deferral, reduction, set-off, counterclaim (other than mandatory counterclaims), defense or deduction with respect to any Rent, and iii) Master Tenant's obligations under this Agreement including, but not limited to, Master Tenant's obligation to pay the full Rent due hereunder, shall not be affected by reason of: (a) any damage to or destruction of the Project except as set forth in Section 17, (b) any taking of the Project (or any part) by condemnation or otherwise except as set forth in Section 18, or (c) any other cause whether similar or dissimilar to the foregoing.

3.6 Landlord shall transfer all security deposits to Master Tenant in compliance with applicable law including, if applicable, any requirement that security deposits be maintained in separate accounts. Master Tenant will indemnify Landlord from and against any or all losses, damages, costs and liabilities suffered or injured by Landlord in connection with any such security deposits so transferred, but only to the extent caused by or due to the gross negligence or willful misconduct of Master Tenant or Master Tenant's members, managers, shareholders, partners, agents, employees, officers, directors or authorized representatives.

3.7 Upon the termination of this Agreement, Master Tenant's rights and obligations in and under all current Subleases shall automatically vest in Landlord and Landlord shall be deemed, without further action required, to have assumed all of Master Tenant's obligations under the Subleases from and after the effective date of the termination. Landlord also shall indemnify and hold Master Tenant harmless from and against any and all liabilities, claims, damages, losses, charges and expenses (including, without limitation, attorneys' fees and expenses) arising out of or pursuant to any Sublease, which relate to facts occurring from or after the effective date of the termination of this Agreement.

3.8 This Agreement shall terminate in the event that all or substantially all of the Project is sold or transferred by Landlord in one transaction. Such termination shall occur simultaneously with the sale. Further, notwithstanding anything to the contrary herein, this Agreement shall automatically terminate upon a foreclosure or dead-in-lieu of foreclosure by the holder of a Permitted Mortgage. The transfer of the Project to the Springing LLC from Landlord, however, shall not cause a termination, but rather in such event this Agreement shall be automatically assumed by the Springing LLC, which shall be thereupon considered the Successor Landlord for all purposes under this Agreement.

4. Rent.

4.1 Master Tenant covenants to pay to Landlord, in lawful money of the United States of America, without notice or demand and without any set-off, deduction or abatement whatsoever (except as otherwise set forth herein), the Rent as follows:

4.1.1 Master Tenant shall pay the annual amount as set forth and identified as "Base Rent" on **Exhibit A** hereto ("**Base Rent**"), payable in arrears on the last day of each calendar month during the Term of this Agreement, or, if earlier, no later than such other day as may be required by the holder of a Permitted Mortgage under its applicable Loan Documents. Notwithstanding the foregoing, as an administrative convenience to Landlord, Landlord hereby irrevocably directs Master Tenant to pay such Base Rent directly to the holder of any Permitted Mortgage, or otherwise in accordance with any Permitted Mortgage, on or before the due date thereunder. Landlord will, for purposes of this Section, keep Master Tenant informed of any changes to such obligations.

4.1.2 Master Tenant shall pay the amount that Gross Revenues for a year exceed the Additional Rent Breakpoint up to a maximum annual ceiling as set forth on **Exhibit A** hereto ("**Additional Rent**"). Additional Rent shall be calculated on a calendar year basis (prorated for any partial year) and shall be payable in monthly installments on the last day of each calendar month during the Term of this Agreement. Prorated monthly payments of Additional Rent shall be made if the Term of this Agreement begins on a date other than the first day of a month or ends on a date other than the last day of a month. Such installment payments shall be based on Master Tenant's good faith estimates, and Master Tenant and Landlord shall reconcile Additional Rent within ninety (90) days after the end of each calendar year.

4.1.3 Master Tenant shall pay an annual amount equal to 90% of the amount by which annual Gross Revenues exceed the Supplemental Rent Breakpoint for such year ("**Supplemental Rent**"). Supplemental Rent shall be payable in arrears on or before the last day of each month at the office of Landlord (or such other address as Landlord may specify in writing). Supplemental Rent shall only be paid after Base Rent and Additional Rent have been fully paid. Supplemental Rent shall be calculated on a yearly basis (prorated for any partial year) and shall be paid in arrears by Master Tenant to the Landlord within ninety (90) days after the end of each calendar year.

4.2 Notwithstanding the provisions of Section 20.1.1 below (but only with respect to failure to fully and timely pay Additional Rent and/or Supplemental Rent), it shall not be a Default so long as, after providing for payment of Base Rent, Operating Costs, all Impositions, and all other obligations required for operation of the Project and any fees, costs, or expenses under the Property Management Agreement except the Property Management Fee (collectively, the "**Mandatory Expenses**"), all of Master Tenant's revenues after Mandatory Expenses ("**Cash Flow**") shall be allocated and paid first toward Additional Rent and then toward Supplemental Rent. The shortfall if any shall be accrued (the "**Accrued Rent**") and paid as follows:

4.2.1 The Accrued Rent plus interest calculated at the Default Rate thereon shall be paid on the next succeeding due date of Additional Rent and/or Supplemental Rent hereunder, to the extent of available Cash Flow; and

4.2.2 All of the Accrued Rent plus interest calculated at the Default Rate thereon shall be due and payable in full upon sale of the Project.

4.3 For the avoidance of doubt, any Rent not paid when due, including any deferred payment pursuant to Section 4.2, shall bear interest from the due date at the Default Rate until paid in full.

4.4 Master Tenant shall be entitled to reduce Additional Rent and/or Supplemental Rent (but not Base Rent), if required, to comply with any income tax withholding law.

4.5 In the event that the Projected Uncontrollable Costs (as reflected in the Projections set forth in **Exhibit C**) for any calendar year (or stub period thereof, in the event that a lease year begins after January 1 of a calendar year or ends before December 31 of a calendar year) exceed the actual Uncontrollable Costs for such calendar year or stub period thereof, Master Tenant shall pay to Landlord, as additional Rent

hereunder, the amount of such excess, within ninety (90) days following the end of the applicable calendar year (or stub period thereof). If, however, the actual Uncontrollable Costs for any calendar year (or stub period thereof) exceed the Projected Uncontrollable Costs for such calendar year (or stub period thereof) (such amount the "**Excess Uncontrollable Costs**"), then Master Tenant shall be responsible for payment of such Excess Uncontrollable Costs, but shall be entitled to reimbursement of such Excess Uncontrollable Costs by offsetting such amount against Additional Rent payable to the Landlord, beginning with the first lease month that begins on or after ninety (90) days following the end of such calendar year (or stub period thereof), and against such amounts payable to Landlord in later months, if and as needed, until the full amount of the Excess Uncontrollable Costs incurred for such calendar year (or stub period thereof) have been reimbursed to the Master Tenant. In the event that there remains any unreimbursed Excess Uncontrollable Costs upon termination of this Agreement, Landlord shall pay such amount at such time.

4.6 Master Tenant shall deposit monthly with Landlord (or Landlord's designee), simultaneously with its payment of Base Rent, one-twelfth (1/12) of the projected annual Impositions and Insurance Costs hereof for such period ("**TI Monthly Reimbursements**"). For the avoidance of doubt, TI Monthly Reimbursements payable pursuant to this Section 4.6 shall be reduced by the amount of any Impositions and Insurance Costs funded for such month through Lender-required reserves under the Loan Documents as part of Base Rent, so that Master Tenant shall deposit only the excess, if any.

4.6.1 TI Monthly Reimbursements shall be based on Landlord's projected amounts and are estimates only, thus may be adjusted from time to time depending on such Impositions and insurance premiums from time to time (in amounts sufficient to pay the same when due) to reflect objectively determinable changes in Impositions or Insurance Costs, including changes in assessed values, tax rates, or insurance premiums, or as required under the Loan Documents, without amendment of this Agreement. TI Monthly Reimbursements shall be held by Landlord solely for the purpose of paying Impositions and Insurance Costs and, to the extent Landlord funds any initial reserve for Impositions and Insurance Costs pursuant to the Loan Documents, such initial reserve amounts shall be deemed advanced on behalf of Master Tenant pursuant to Section 10. Upon expiration or earlier termination of this Agreement, any unapplied TI Monthly Reimbursements held by Landlord that were funded by Master Tenant shall be returned to Master Tenant, net of any outstanding obligations.

4.6.2 Following the end of each calendar year (or stub period thereof), Landlord shall determine the actual Impositions and Insurance Costs applicable to such period and compare such amounts to the aggregate amounts funded in respect of Impositions and Insurance Costs for such period by or on behalf of Master Tenant, including TI Monthly Reimbursements and any amounts funded through Lender-required reserves under the Loan Documents (including any initial reserves deemed advanced on behalf of Master Tenant pursuant to Section 4.6.1). If the aggregate amounts so funded exceed the actual Impositions and Insurance Costs for such period, such excess shall not be refunded to Master Tenant or credited against Rent, but shall be carried forward and applied to fund projected Impositions and Insurance Costs for subsequent periods. If the actual Impositions and Insurance Costs for such period exceed the aggregate amounts so funded, Master Tenant shall pay the amount of such deficiency to Landlord or directly to the applicable taxing authority or insurance carrier, as applicable.

4.7 Notwithstanding anything to the contrary contained in this Agreement, if, as a result of any audit, year-end closing, reconciliation, lender statement, tax bill, insurance premium invoice, or other final determination, it is determined that the amount of Rent, Impositions, Insurance Costs, reserve deposits, advances, or other amounts payable or funded by or on behalf of Master Tenant or Landlord for any period differs from the amount actually due or payable for such period pursuant to this Agreement, the parties shall cooperate in good faith to reconcile such difference so that the correct amount is paid or credited, as applicable, in accordance with the terms of this Agreement. Without limiting the foregoing, any differences

attributable to real estate taxes, insurance premiums, or related reserves shall be reconciled exclusively pursuant to Section 4.6, and any differences attributable to Uncontrollable Costs shall be reconciled pursuant to Section 4.5. In the event of any disagreement between Landlord and Master Tenant regarding projected amounts used for purposes of calculating payments or deposits hereunder, Landlord's determination of such projected amounts shall control for purposes of making timely interim funding, subject in all cases to the final reconciliation in accordance with this Section 4.7 based on actual amounts ultimately determined. Nothing in this Section 4.7 shall be construed to modify the economic allocation of responsibility set forth herein, but rather to ensure that the amounts paid or funded reflect such allocation on a final reconciled basis.

5. Impositions.

5.1 Master Tenant shall pay (except as provided in Section 5.5), before any fine, penalty, interest, or cost may be added or imposed by operation of law, all Impositions that at any time during the Term may be assessed, levied, imposed upon, become due and payable out of or in respect of, or become a lien on (a) the Project or any part thereof or (b) any use or occupation of the Project. If Landlord receives any bill or notice for any Impositions, Landlord shall promptly deliver such bill or notice to Master Tenant. Landlord may, as an administrative convenience or to comply with the Loan Documents, remit payment of any Impositions directly to the applicable governmental authority; *provided*, *however*, that Master Tenant shall remain solely and economically responsible for all Impositions, and all such payments shall be made using funds provided by Master Tenant and shall not constitute a Landlord cost. The funding, payment, and reconciliation of Impositions shall be governed by Section 4.6. To the extent any Impositions are funded through Lender-required reserves under the Loan Documents, whether pursuant to Base Rent or TI Monthly Reimbursements, such funding shall satisfy Master Tenant's obligation to pay the applicable Impositions to the extent of the amounts so funded, subject to the terms of the Loan Documents. Master Tenant shall make all payments of Impositions required to be paid into any impound, reserve, or escrow account established by the holder of a Permitted Mortgage, in each case as required under the applicable Loan Documents. Notwithstanding anything in this Agreement to the contrary, nothing in this Section 5.1 shall be construed to require duplicative payment of Impositions or to create any reimbursement, offset, or adjustment mechanism separate from the reconciliation procedures set forth in Section 4.6.

5.2 If at any time during the Term of this Agreement the methods of taxation prevailing at the Commencement Date shall be altered so as to cause the whole or any part of the Impositions now levied, assessed or imposed on real estate and the improvements thereon to be levied, assessed and imposed wholly or partially as a capital levy or otherwise, on the rents received therefrom, or if as a result of any such alteration of the methods of taxation, any gross receipts or franchise tax (other than income taxes), assessment, levy or other tax or charge shall be measured by or be based, in whole or in part, upon the Project and shall be imposed upon Landlord then all such taxes, assessments, levies or charges so measured or based, shall be deemed to be included within the term "Impositions" for the purposes hereof, and Master Tenant shall pay and discharge the same as herein provided in respect of the payment of Impositions. Each such tax, assessment, levy or charge shall be deemed to be an item of additional Rent hereunder.

5.3 In the case of assessments for local improvements or betterments which may by law be payable in installments, Master Tenant (subject to Section 5.7) shall only be obligated to pay such installments which are currently due or such installments as fall due during the Term of this Agreement, together with interest on deferred payments, *provided* that Master Tenant shall take such steps as may be prescribed by law to convert the payment of the assessment into installment payments, and Landlord hereby agrees to cooperate with Master Tenant to effect the same. Such payments of installments and any interest thereon shall be deemed to be included within the term 'Impositions' and shall be paid by Master Tenant in accordance with this Agreement.

5.4 Subject to Section 5.5, in any suit or proceeding arising out of the failure of Master Tenant to keep any covenant in the provisions of this Section 5, the certificate or receipt of the department, officer or bureau charged with collection of the Impositions, showing that the Impositions are due and payable or have been paid, shall be prima facie evidence that such Impositions were due and payable as a lien or charge against the Project or that the same have been paid as such by Landlord.

5.5 Master Tenant shall have the right, after prior written notice to Landlord and with Landlord's consent, to contest or review by appropriate legal proceedings or in such manner as Master Tenant in Master Tenant's opinion shall deem advisable (which proceedings or other steps taken by Master Tenant if instituted shall be conducted diligently and solely at Master Tenant's own expense) any and all Impositions levied, assessed or imposed against the Project or taxes in lieu thereof required to be paid by Master Tenant, *provided* that such contest shall not operate to prevent or in any way impair or delay a sale of the Project by Landlord or result in a tax sale of the Project or any portion thereof. Landlord, at the request of Master Tenant, will join in any such contest or proceeding and will execute any agreement in form and substance satisfactory to Landlord in settlement of any of those contests or proceedings and any documents in implementation thereof if it is necessary to do so in order to prosecute such proceeding, but Master Tenant in those circumstances must defend and hold Landlord harmless from and against any and all liability, loss, cost and expense (including without limitation, reasonable attorneys' fees and expenses) suffered or incurred by Landlord in connection therewith. All payments made by Landlord in respect of any Impositions shall be funded by Master Tenant in accordance with Section 4.6, and Landlord shall have no obligation to bear any Impositions. In any event, no such contest shall defer or suspend Master Tenant's obligations to pay the Impositions as herein provided, but if by law it is necessary that such payment be suspended to preserve or perfect Master Tenant's contest, then the contest shall not be undertaken without there being first furnished to Landlord security in form reasonably satisfactory to Landlord, and in an amount sufficient to pay such Impositions, together with all interest and penalties thereon upon conclusion of the contest and all costs thereof that may be imposed upon Landlord or the Project, and Master Tenant shall defend and hold Landlord harmless from and against any and all liability, loss, cost and expense suffered or incurred by Landlord in connection therewith. Nothing in this Section 5.5 shall be in derogation of Landlord's right to contest or review any Impositions by legal proceedings or in such other manner as may be available to Landlord upon ten (10) days prior written notice to Master Tenant.

5.6 At Landlord's written request, Master Tenant shall deliver to Landlord copies of all paid bills or other evidence of payment for Impositions prior to the date any fine, interest or cost may be imposed for the nonpayment thereof.

5.7 Any Impositions relating to a fiscal period of the taxing authority occurring at the beginning or end of the Term of this Agreement, only a part of which fiscal period is within the Term of this Agreement (whether or not such Impositions are assessed, levied, imposed or become a lien or shall become payable, during the Term of this Agreement) shall be apportioned and adjusted between Landlord and Master Tenant so that Landlord shall only be responsible in respect to that portion of such Impositions which bear the same ratio to the full Impositions that the part of the fiscal period which falls outside the Term of this Agreement bears to the entire fiscal period. Master Tenant shall be responsible for the Impositions that fall within the Term of this Agreement.

5.8 Landlord hereby designates Master Tenant to act on its behalf, and, during the Term of this Agreement, assigns to Master Tenant Landlord's rights and interest, subject in all cases to the terms and conditions of the Loan Documents then in effect: (a) to complete, terminate or settle any appeal proceedings pending on the Commencement Date with respect to real estate tax assessments of the Project for periods prior to the Commencement Date, (b) to determine the need to initiate an appeal of any real estate tax assessment of the Project with respect to periods prior to or after the Commencement Date, and to complete, terminate or settle any such appeals, and (c) to engage legal counsel in connection with the foregoing, *provided*, *however*, that any refunds or settlement monies resulting from such appeals shall be

applied as follows: (i) first, to the payment of all attorneys' fees and costs attendant to such appeals, (ii) second, to any subtenants to the extent such subtenants are entitled to a portion of such refunds or monies under their respective subleases, and (iii) third, so long as Master Tenant is not in Default hereunder, to Master Tenant. Master Tenant shall pay all costs, including attorneys' fees and costs, attendant to such appeals (to the extent not covered by the application of any refunds or settlement monies) and Landlord shall have no obligation to pay the same. At Master Tenant's sole cost and expense, Landlord shall cooperate with Master Tenant to the extent Landlord's participation is necessary to initiate, settle, terminate, extend or amend such appeals or to otherwise secure any refunds.

6. Repairs and Maintenance of the Project.

6.1 Except for Landlord Costs, throughout the Term of this Agreement, Master Tenant, at Master Tenant's sole cost and expense, shall take good care of the Project and shall put, keep and maintain the same and every part thereof in a condition substantially the same as the condition of the Project on the Commencement Date (ordinary wear and tear excepted), and shall make all necessary repairs thereto of whatsoever nature or kind, interior and exterior, structural and nonstructural, ordinary and extraordinary and whether now foreseeable or not foreseeable, and including, without limitation, any repairs or other work required (i) by contract or Requirements under all Existing Obligations affecting all or any part of the Project or (ii) subject to any contrary terms of Sections 17 or 18, following a Taking or a casualty. Other than responsibility for Landlord Costs, and subject to any contrary provisions of Sections 17 and 18, Master Tenant (and not Landlord) shall have full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Project.

6.2 To the extent there are reserves established under the Permitted Mortgage that are applicable to any maintenance, repairs or replacements, the monthly deposits which will be paid by Master Tenant together with other Impositions escrow deposits, Master Tenant shall have the right to cause Landlord to access to such reserves to fund some or all of any such costs, which funds shall be delivered by Landlord to Master Tenant. If any reserve is established under the Loan Documents for or permitted for the payment of Landlord Costs, or if any portion of any monthly payments or reserves required under the Loan Documents is reasonably attributable to Landlord Costs, Landlord, and not Master Tenant, shall be responsible for payment of all related contributions to such reserve(s), and Master Tenant shall have the right to cause Landlord to access to such reserves to pay for the work for which the reserves were set aside, which funds shall be delivered by Landlord to Master Tenant.

6.3 Reserve Accounts.

6.3.1 Master Tenant shall be responsible to perform all Capital Improvements that, in Master Tenant's reasonable discretion, are necessary to properly maintain the Project in accordance with its Use. Master Tenant may in its sole and absolute discretion establish a reserve account to fund and pay for Capital Improvements for which it is responsible to fund (the "**Master Tenant Capital Reserve Account**"). If the Master Tenant Capital Reserve Account, if established, does not contain sufficient funds to fully reimburse Master Tenant, Master Tenant shall be obligated to separately fund such costs, but in all instances excluding Landlord Costs, which shall remain the responsibility of and shall be funded by Landlord. Landlord, however, shall not be obligated to pay for any Landlord Costs required (i) due to the gross negligence or willful misconduct of Master Tenant or Master Tenant's members, managers, shareholders, partners, agents, employees, officers, directors or authorized representatives or (ii) that arise directly or indirectly from or in connection with the presence or release of any Hazardous Substance (as defined in Section 21.1) in or into the air, soil, surface, water, groundwater or soil vapor at, on, under, over or within the Project, or any portion thereof from and after the Commencement Date and otherwise during the Term, in either of which event such Landlord Capital Improvements shall be the responsibility of Master Tenant. Any funds

held in the Master Tenant Capital Reserve Account shall belong to Master Tenant and shall be transferred to Master Tenant upon termination of this Agreement.

6.3.2 Landlord may establish a "**Supplemental Trust Reserve**" for the benefit of Landlord and the Project to pay for Landlord Costs and other Project costs, expenses and fees, including but not limited to repairs and renovations and any Property Management Fee. Master Tenant may in its sole and absolute discretion cause Landlord to draw upon these reserves to satisfy Landlord Costs, and for other Project costs and expenses including without limitation the payment of any Property Management Fee. Landlord may initially deposit into the Supplemental Trust Reserve an amount equal to approximately $300,000, which shall be paid out of proceeds from the Loan. In addition, Landlord may further deposit into the Supplemental Trust Reserve up to 5% of the Project's net operating income per year. All funds held in such Supplemental Trust Reserve shall belong to Landlord and, subject to any contrary terms of any Loan Documents, and to the extent that any funds remain, they shall be transferred to Landlord upon termination of this Agreement.

6.3.3 Master Tenant may cause Landlord to draw upon the Supplemental Trust Reserve (and any such other reserves available under the Loan Documents) for Capital Improvements (including Landlord Cost items) with a useful life beyond the term of this Agreement.

6.4 Master Tenant may satisfy its funding obligations for any Capital Improvements to the extent, if any, that insurance proceeds are made available to Master Tenant's or Landlord's insurance carrier and such proceeds are used to perform the Capital Improvements.

6.5 Throughout the Term of this Agreement, Master Tenant shall not intentionally cause any waste, damage, disfigurement or injury to the Project or any part thereof.

6.6 Master Tenant may, subject to the Loan Documents, enter into a Property Management Agreement for the management and operation of the Project as contemplated hereunder. Landlord shall not have any rights or obligations under any Property Management Agreement; *provided* that at all times the Property Management Agreement shall be subject and subordinate to this Agreement.

6.7 Master Tenant has entered into that certain Construction Management Agreement for construction management services with respect to the Project. Landlord shall not have any rights or obligations under such Construction Management Agreement; *provided* that at all times the Construction Management Agreement shall be subject and subordinate to this Agreement.

7. Compliance with Requirements.

7.1 Throughout the Term of this Agreement, Master Tenant, at Master Tenant's sole cost and expense (except for Landlord Capital Improvements which shall be at Landlord's expense) and in all material respects, shall promptly comply with all present and future Requirements whether or not such Requirements shall necessitate structural changes or improvements or interfere with the use and enjoyment of the Project, or any part thereof. If Landlord receives any notices regarding Requirements, Landlord shall promptly deliver the same to Master Tenant.

7.2 Master Tenant shall have the right, after prior notice to Landlord, solely at Master Tenant's own expense, without cost or expense to Landlord, to contest by appropriate legal proceedings diligently conducted in good faith, in the name of Master Tenant, the validity or application of any Requirements, *provided*, *however*, that Master Tenant may delay compliance therewith until the final determination of such proceeding only if by the terms of any such Requirements, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrence of, or the risk of incurring, any fine, lien, charge or liability of any kind against the Project or Master Tenant's leasehold interest therein and without subjecting Master Tenant or Landlord to the risk of any liability, civil or

criminal, for failure so to comply therewith. To the extent reasonably required and at Master Tenant's request and sole cost and expense, Landlord hereby agrees to cooperate with and assist Master Tenant with such contests.

8. Insurance.

8.1 Throughout the Term of this Agreement, Landlord shall procure and maintain, or cause to be procured and maintained, property insurance on the Project for the mutual benefit of Landlord and Master Tenant as described in Section 8.1, in each case in commercially reasonable amounts and on commercially reasonable terms and otherwise as may be required under the Loan Documents. Notwithstanding the foregoing, Master Tenant shall remain solely and economically responsible for all Insurance Costs associated with such insurance, which shall be funded by Master Tenant in accordance with Section 4.6. Landlord may remit insurance premiums directly to the applicable insurance carriers as an administrative convenience or to comply with the Loan Documents; *provided* that all such premiums shall be paid using funds provided by Master Tenant and shall not constitute a Landlord cost. Notwithstanding anything in this Agreement to the contrary, nothing in this Section 8.1 shall be construed to require duplicative payment of Impositions or to create any reimbursement, offset, or adjustment mechanism separate from the reconciliation procedures set forth in Section 4.6.

8.1.1 All risks property insurance on the Improvements in an amount not less than 100% of the full replacement costs of the Improvements with a "replacement cost endorsement." "Full replacement cost" as used herein means the cost of replacing the Improvements (exclusive of the cost of excavations, foundation and footings below the lowest basement floor) without deduction for physical depreciation thereof;

8.1.2 Boiler and machinery insurance as may reasonably be required to cover physical damage to the Improvements and to the major components of any central heating, air-conditioning or ventilation systems;

8.1.3 Provided that if the Project, or any portion thereof, is located in an area designated as a flood prone area participating in the National Flood Insurance Program, and *provided further* that a Lender so requires a flood insurance policy with coverage in an amount equal to the full replacement cost or the maximum amount then available, unless neither the Project, nor any portion thereof, is located within a 100 year flood plain as determined by the Federal Insurance Administration; and

8.1.4 During any changes or alterations of the Project or any part thereof and during any Restoration following a Taking or a casualty, all risk builder's risk insurance in an amount not less than 100% of the full replacement cost of the Improvements.

8.2 Master Tenant shall also maintain, at Master Tenant's sole cost and expense, or cause to be maintained by its Sublessee and at all times throughout the Term of this Agreement, the following operational commercial liability insurance, which shall be paid directly by Master Tenant and shall not be funded through TI Monthly Reimbursements:

8.2.1 insurance against loss of profits or rental under a business interruption insurance policy or under a rental value insurance policy covering risk of loss due to the occurrence of any of the hazards covered by the policies described in Sections 8.1.1, 8.1.2 and 8.1.3, and (to the extent insurance covering such hazards is generally obtainable) in Section 8.1.4 in an amount not less than the aggregate requirements for the period of twelve (12) months following the occurrence of the insured casualty for: (i) Base Rent, estimated Additional Rent, and estimated Supplemental Rent or, if such amounts exceed the Base Rent, estimated Additional Rent, and estimated Supplemental

Rent, the rental payments due Master Tenant under the Subleases, (ii) Impositions and (iii) Insurance Costs required to be carried pursuant to this Section;

8.2.2 comprehensive general liability insurance including contractual liability insurance specifically covering the indemnification obligations of Master Tenant under this Agreement (including, without limitation, the obligations referred to in Section 16.1), on an occurrence basis against claims for personal injury, (including, without limitation, elevators and/or escalators) and the sidewalks, driveways and curbs adjacent thereto with limits not less than $1,000,000 combined single limit and $2,000,000 in the annual aggregate in the event of bodily injury or death to any number of persons in any accident; and

8.2.3 any other insurance or coverages applicable to the Project which are required to be maintained by the owner or operator of the Project pursuant to the terms of any Permitted Mortgage; *provided* that such insurance shall only be required to be maintained by Master Tenant during the term of a Permitted Mortgage.

8.3 All insurance provided for under this Agreement shall be effected under valid enforceable policies issued by insurers of responsibility and licensed to do business in the State(s) where the Project is located. The original policies under Section 8.1 and the certificates for the policies under Section 8.2 shall be delivered to Landlord by Master Tenant or to Master Tenant by Landlord, in either case, within five (5) days of receipt of a written request therefor from the applicable party. Prior to the expiration date of any policy required pursuant to this Section, the original renewal policy (or the certificate as concerns the insurance required pursuant to Section 8.2) for such insurance shall be delivered by Master Tenant to Landlord, together with satisfactory evidence of payment of the premium on such policy. To the extent obtainable, all such policies shall contain agreements by the insurers that (i) no act or omission by Master Tenant shall impair or affect the rights of the insured to receive and collect the proceeds under the policies; (ii) such policies shall not be cancelled except upon not less than ten (10) days' prior written notice to each named insured and loss payee; and (iii) the coverage afforded thereby shall not be affected by the performance of any work in or about the Project.

8.4 The rental value policy referred to in Section 8.2.1 shall name Landlord as loss payee. To the extent Master Tenant is in Default under this Agreement, Landlord shall retain and apply the proceeds, if any, of such rental value insurance first towards the payment of Base Rent, second to the payment of Impositions, third to payment of the Additional Rent, fourth to the portion of Accrued Rent consisting of amounts of Additional Rent accrued pursuant to Section 4.2, fifth to payment of Supplemental Rent, and sixth to the balance of Accrued Rent consisting of amounts of Supplemental Rent accrued pursuant to Section 4.2. Any balance of such portion of the total proceeds remaining after such Default has been cured shall be paid to Master Tenant, unless Master Tenant is again in Default under this Agreement, in which case said proceeds shall be retained by Landlord.

8.5 Except as provided in Section 8.4, all policies of insurance shall name Master Tenant as the insured and Landlord (and Master Tenant, if applicable) as an additional insured, as their respective interests may appear. Subject to the terms of any Loan Documents evidencing a Permitted Mortgage, the loss, if any, under said policies referred to in Section 8.1 shall be adjusted with the insurance companies solely by Master Tenant, except that in case of any particular casualty occurring during the last year of the Term of this Agreement and resulting in damage or destruction exceeding $3,000,000, no adjustment shall be made with the insurance companies without the prior written approval of Landlord.

8.6 The loss, if any, under all policies of insurance of the kind referred to in Section 8.1 shall be payable to Master Tenant, unless the casualty results in Master Tenant's termination of this Agreement pursuant to the provisions of Section 17, in which event the loss shall be payable to Landlord. All policies

of insurance of the kind aforesaid shall expressly provide that all losses thereunder shall be adjusted and paid as provided in Sections 8.5 and 8.6.

8.7 Nothing contained in the foregoing provisions of this Section shall prevent Master Tenant from taking out insurance of the kind and in the amount provided for under Sections 8.1 or 8.2 under a blanket insurance policy or policies which cover the properties owned or operated by Master Tenant or its affiliates as well as the Project; *provided*, *however*, if such insurance is provided pursuant to a blanket policy, Master Tenant shall obtain an "Agreed Value Endorsement" applicable to the Project.

8.8 All policies under Section 8.1 and Section 8.2 shall contain endorsements that the rights of the insured to receive and collect the proceeds shall not be diminished because of any additional insurance carried by Master Tenant on Master Tenant's own account.

8.9 The requirements of this Section shall not be deemed or construed to negate or modify Master Tenant's obligations to defend and indemnify Landlord pursuant to the provisions of this Agreement, or to negate or modify Master Tenant's obligations to restore the Project following a Taking or casualty pursuant to the provisions of this Agreement.

8.10 Notwithstanding anything herein to the contrary, to the extent required in any Permitted Mortgage the holder of such Permitted Mortgage shall be named an additional insured under any liability policies and proceeds under such other policies shall be payable to holder as a mortgagee under a standard mortgagee clause in favor of, and acceptable to, such holder. Master Tenant's obligations hereunder to deliver certificates of insurance or original insurance policies to Landlord shall, during the time any Permitted Mortgage is in existence, include delivery of such items to such Lender in addition to (or where necessary in lieu of) delivery of such items to Landlord. To the extent that any insurance proceeds are paid to a Lender under a Permitted Mortgage in accordance with the requirements of such Permitted Mortgage, such payment (and, as applicable, the use of any such proceeds by Master Tenant to repair any related damage in accordance with the terms of such Permitted Mortgage), will be deemed to satisfy Master Tenant's obligations under this Agreement, including Section 17, where such proceeds would, without such Permitted Mortgage, be available to Master Tenant to perform its repair obligations under this Agreement. Master Tenant's and Landlord's rights in and to any insurance proceeds are subject to the rights of the holder of a Permitted Mortgage under such Permitted Mortgage.

8.11 To the extent any Insurance Costs required under this Agreement are funded through Lender-required reserves or impound accounts under the Loan Documents, whether pursuant to Base Rent or TI Monthly Reimbursements under Section 4.6, such funding shall satisfy Master Tenant's obligation to pay the applicable Insurance Costs to the extent of the amounts so funded, subject to the terms and conditions of the applicable Loan Documents.

9. Surrender at End of Term.

9.1 Upon termination of this Agreement, Master Tenant shall quit and surrender the entire Project (including, without limitation the Improvements) to Landlord, without payment or off-set, in a condition substantially similar to the condition of the Project on the Commencement Date, reasonable wear and tear and Capital Improvements excepted, free and clear of all leases and occupancies other than (a) the Existing Obligations (to the extent the same have not expired or have since been terminated), (b) Subleases and (c) any other leases and occupancies which Landlord has expressly agreed in writing shall survive the expiration or sooner termination of this Agreement, and free and clear of all liens and encumbrances other than those, if any, created by Landlord and any Permitted Mortgage. Upon termination of this Agreement, Master Tenant shall assign the items set forth in (a), (b) and (c) above to Landlord.

9.2 Any personal property of Master Tenant, any subtenant, any space tenant, any occupant, any business invitee or any licensee, which shall remain upon the Project after the expiration or

sooner termination of this Agreement and the removal of Master Tenant, such subtenant, such space tenant, such occupant, such business invitee or such licensee from the Project, or the abandonment or vacation of the Project by Master Tenant or such subtenant, space tenant, occupant, business invitee or licensee, may, at the option of Landlord, be deemed to have been abandoned and either may be retained by Landlord as Landlord's property or may be disposed of, without accountability, in such manner as Landlord may see fit, and Master Tenant agrees to defend, indemnify and hold Landlord harmless from and against any and all liabilities, claims, damages, losses, charges and expenses (including, without limitation, attorneys' fees and expenses) arising in any way from such retention or disposition.

9.3 If Master Tenant does not vacate the Project upon expiration or sooner termination of this Agreement, then Landlord shall have the option to treat Master Tenant as a month-to-month tenant, subject to all of the provisions of this Agreement, except that: (i) the term shall be month-to-month and (ii) the rent (excluding Impositions which will also be payable) shall be an amount equal to 125% of the prior monthly installment of Rent.

9.4 Landlord shall not be responsible for any loss or damage occurring to any property owned by Master Tenant, any subtenant, any space tenant, any occupant, any business invitee or any licensee.

9.5 The terms, covenants, provisions and conditions of this Section 9 shall survive the expiration or sooner termination of this Agreement.

10. Landlord's Right to Perform Master Tenant's Covenants.

10.1 If Master Tenant shall at any time fail to (i) pay any Impositions in accordance with the provisions of Section 5, (ii) maintain any of the insurance policies provided for in Section 8, (iii) discharge any lien or other encumbrance that Section 12 requires Master Tenant to discharge, (iv) comply with the provisions of Section 21, or (v) make any other payment or perform any other act on Master Tenant's part to be made or performed pursuant to this Agreement, then, after twenty (20) days prior written notice to Master Tenant or without notice in case of an emergency (which shall include, but shall not be limited to, danger to person or property or the imposition of a monetary fine or penalty on Landlord or Landlord's exposure to possible liability or where the due date for such payment or performance shall have passed or shall occur within such twenty (20) day period) and without waiving, or releasing Master Tenant from any obligation of Master Tenant contained in this Agreement, Landlord may (but shall be under no obligation to):

10.1.1 pay all Impositions payable by Master Tenant pursuant to the provisions of Section 5;

10.1.2 take out, pay for and maintain any of the insurance policies provided for in Section 8;

10.1.3 discharge such lien or encumbrance for Master Tenant's account;

10.1.4 make any payment and perform any action on Master Tenant's behalf to be made or performed pursuant to Section 21, and enter upon the Project for that purpose and take all such action thereon as may be necessary therefor; and/or

10.1.5 make any other payment or perform any act on Master Tenant's behalf to be made or performed hereunder as provided in this Agreement, and enter upon the Project for that purpose and take all such action thereon as may be necessary therefor.

10.2 All sums so paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the Default Rate from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense, shall constitute additional Rent payable by Master Tenant under this Agreement and shall be paid by Master Tenant to Landlord on demand. Notwithstanding the foregoing, any payments made by Landlord

in respect of Impositions or Insurance Costs shall be governed by the funding and reconciliation provisions of Section 4.6. To the extent Landlord advances any such amounts, such advances shall be deemed made on behalf of Master Tenant and shall be reconciled exclusively pursuant to Section 4.6 and shall not give rise to any rent offset, abatement, or reimbursement rights except as expressly provided therein. Landlord shall not be limited in the proof of any damages which Landlord may claim against Master Tenant arising out of or by reason of Master Tenant's failure to provide and keep in force insurance which Master Tenant is required to keep in force under this Agreement. Landlord shall also be entitled to recover, as damages for such breach, the uninsured amount of any loss to the extent of any deficiency in the insurance required by the provisions of this Agreement, damages, costs and expenses of suit suffered or incurred by reason of damage to, or destruction of, the Project, or any part thereof, occurring during any period when Master Tenant shall have failed or neglected to provide insurance as aforesaid.

10.3 Master Tenant's obligations under this Section 10 shall, as to matters arising prior to the expiration or sooner termination of this Agreement, survive for one (1) year following the expiration or sooner termination of this Agreement.

11. Changes and/or Alterations by Master Tenant.

11.1 Subject to the Loan Documents and Section 11.3 below, Master Tenant shall have the right at any time and from time to time during the Term of this Agreement to make, at Master Tenant's sole cost and expense (*provided* that any Landlord Costs shall be at Landlord's expense) and in its sole and absolute discretion, structural and nonstructural changes and alterations in or to the Improvements without Landlord's consent, subject however, in all cases to the following:

11.1.1 No change or alteration shall be undertaken until Master Tenant shall have procured and paid for, so far as the same may be required, from time to time, all permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction. Landlord shall join in the application for such permits and authorizations whenever such action is necessary; *provided* that Landlord shall not incur or be subject to any liability or expense as a result of joining in said application.

11.1.2 No change or alteration shall be made that could materially reduce the value of the Project below its value immediately before such change or alteration, result in a material change in the usefulness of the Project from its intended Use, or that would violate the terms of any Sublease.

11.1.3 Any change or alteration shall be made promptly and in a good and workmanlike manner and in compliance with all applicable permits and authorizations, and all Requirements shall be completed at least three (3) months prior to the end of the Term of this Agreement.

11.1.4 The cost of any such change or alteration shall be promptly paid by Master Tenant (or from the Master Tenant Capital Reserve Account, if any, in the event of a Capital Improvement other than disputed items) so that the Project shall at all times be free and clear of liens and/or encumbrances for labor and materials supplied or claimed to have been supplied to the Project.

11.1.5 All changes and alterations to the Improvements made by or on behalf of Master Tenant shall be and become the property of Landlord upon termination of this Agreement and for purposes of this Agreement shall be deemed to be a part of the Improvements. Master Tenant shall diligently prosecute to completion all such changes and alterations once commenced, and Master Tenant's obligation to complete the same pursuant to the terms of this Agreement shall survive the expiration or sooner termination of this Agreement.

11.1.6 Worker's compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against Landlord,

Master Tenant or the Project, and general liability insurance for the mutual benefit of Master Tenant and Landlord with a combined single limit of not less than $1,000,000 "per occurrence" against all claims for personal injury, bodily injury, death and property damage and all risk builder's risk as provided in Section 8.1.4 shall be maintained by Master Tenant, at Master Tenant's sole cost and expense, at all times when any work is in process in connection with any change or alteration. All such insurance shall be provided by a company or companies of recognized responsibility, and all policies or certificates therefor issued by the respective insurers, bearing notations evidencing the payment of premiums or accompanied by other evidence of such payment, shall be delivered to Landlord prior to the commencement of any work in connection therewith.

11.2 Master Tenant covenants that in performing any work or repairs to, or restoration, replacement or rebuilding of, any portion of the Improvements required or permitted to be performed by Master Tenant pursuant to this Agreement, Master Tenant shall, to the extent applicable, comply with the provisions set forth in this Section 11.

11.3 Notwithstanding anything in this Agreement, to the extent that Master Tenant makes any changes or alterations to the Project that constitute more than minor, non-structural modifications, Master Tenant must, prior to making any such changes or alterations, (a) provide thirty (30) days' advance written notice to Landlord setting forth the details of such alterations so that Landlord, to the extent it is a DST, may effectuate a transfer of the Project if necessary to a newly-formed Delaware limited liability company and in accordance with the trust agreement of Landlord, or (b) execute an agreement with Landlord to the effect that at the end of the Term of this Agreement, Master Tenant shall restore the Project to a condition substantially the same as the condition of the Project on the Commencement Date. Notwithstanding anything else in this Agreement, at any time that Landlord is a DST, Landlord shall not have the right, power or ability to make more than minor non-structural modifications to the Project (in accordance with Revenue Ruling 2004-86).

12. Discharge of Liens.

12.1 Master Tenant covenants and agrees that Master Tenant shall not create or permit to be created or to remain, and shall discharge, any lien, encumbrance or charge which might be or become a lien, encumbrance or charge upon the Project or any part thereof or the income therefrom, and Master Tenant shall not suffer any other imposition whereby the estate, right and interest of Master Tenant in the Project or any part thereof might be impaired, *provided* that any Impositions may, after the same become a lien on the Project, be paid or contested in accordance with Section 5, and any mechanic's, laborer's or materialman's lien may be discharged in accordance with Section 12.2.

12.2 If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Project or any part thereof, Master Tenant, within thirty (30) days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Master Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy available to Landlord hereunder, at law or in equity and including those set forth in Section 20, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings. Any amount so paid by Landlord and all costs and expenses incurred by Landlord in connection therewith, including, without limitation, amounts paid in good faith settlement of such lien and attorneys' fees and expenses, together with interest thereon at the Default Rate from the respective dates of Landlord's making the payment or incurring the cost and expense to the date Landlord is in actual receipt of such amount from Master Tenant, shall constitute additional Rent payable by Master Tenant under this Agreement and shall be paid by Master Tenant to Landlord on demand. In the event that any mechanic's, laborer's or materialmen's lien cured by Master Tenant relates to any Landlord Capital

Improvement expense that is the responsibility of Landlord, Master Tenant shall be reimbursed therefor in the manner described in Section 6.

NOTICE IS HEREBY GIVEN THAT LANDLORD WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO MASTER TENANT, OR TO ANYONE HOLDING AN INTEREST IN THE PROJECT (OR ANY PART THEREOF) THROUGH OR UNDER MASTER TENANT, AND THAT NO MECHANIC'S OR OTHER LIENS OR ANY SUCH LABOR, SERVICE OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN THE PROJECT.

13. Use of Project.

13.1 Master Tenant shall use the Project for the Use and for no other purpose, and hereby covenants to use and operate the Project for the Use at all times during the Term of this Agreement. Master Tenant hereby covenants and agrees to act in compliance with all laws, ordinances, rules, regulations and guidelines relating to operation of the Project.

13.2 Master Tenant shall not use or allow the Project or any part thereof to be used or occupied for any unlawful purpose or in material violation of any certificate of occupancy or certificate of compliance or of any other material certificate, permit, law, statute, ordinance, rule or regulation or any of the other Requirements, or any lease, mortgage, easement, restriction or other material agreement covering or affecting the use of the Project or any part thereof, and shall not suffer any act to be done or any condition to exist on the Project or any part thereof, which may be dangerous, unless safeguarded as required by law, or which may constitute a nuisance, public or private, or which may make void or voidable, or cause the revocation of, any certificate of occupancy or certificate of compliance or any other material certificate or permit or any insurance then in force with respect thereto.

13.3 Master Tenant shall not suffer or permit the Project, or any portion thereof, to be used by any other party, including the public, as such, without restriction or in such manner as might reasonably tend to impair Landlord's title to the Project or any portion thereof, or in such manner as might reasonably make a possible claim or claims of adverse usage or adverse possession by such party or the public, as such, or of implied dedication of the Project or any portion thereof.

14. Entry to Project by Landlord. Master Tenant shall permit Landlord, and any of Landlord's authorized representatives to enter the Project at reasonable times upon reasonable notice, and at any time in case of an emergency for the purpose of (a) inspecting the same, and showing the same to any prospective purchaser of Landlord's interest or, within six (6) months prior to the expiration of the Term of this Agreement, any prospective tenants, or (b) making any necessary repairs thereto and performing any work therein that may be necessary by reason of Master Tenant's failure to commence (and diligently pursue the completion of) any such repairs within twenty (20) days after prior written notice from Landlord, or (c) to perform any work related to any Landlord Capital Improvements if not performed by Master Tenant. Nothing herein shall imply any duty upon the part of Landlord to do any such work, (other than any work related to any Landlord Capital Improvements, which shall (subject to the performance thereof by Master Tenant as set forth in Section 6.3) be Landlord's responsibility), and performance thereof by Landlord shall not constitute a waiver of Master Tenant's default in failure to perform the same.

15. Waiver of Subrogation Right. Landlord and Master Tenant hereby each release the other party, and such other party's owners, members, managers, shareholders, beneficial interest holders, partners, agents, employees, officers, directors and authorized representatives, from any claims such releasing party may have for damage to the Project, personal property, improvements and alterations of such party in or about the Project to the extent the same is covered by a policy of insurance insuring such party; *provided*, *however*, that this waiver shall be ineffective unless consented to by the insurance company or companies issuing the insurance policies required to be maintained by Master Tenant under this Agreement and shall

be ineffective as to any such damage not covered by insurance required to be carried hereunder or, if greater in amount, insurance actually carried. Master Tenant shall cause each fire or other casualty insurance policy maintained by Master Tenant with respect to the Project or any portion thereof to provide that the insurance company waives all right to recovery of paid insured claims by way of subrogation against the other party in connection with any matter covered by such policy, to the extent such waiver is available.

16. Indemnification and Waiver.

16.1 Master Tenant shall indemnify, defend and hold Landlord harmless from and against any and all losses, damages, expenses, costs and liabilities actually suffered or incurred by Landlord (collectively, "**Damages**") in connection with anything and everything whatsoever directly arising from or out of (i) any injury, illness or death to any person or damage to any property from any cause occurring in or upon or in any other way relating to the Project, (ii) the occupancy of the Project or any part thereof by, through or under Master Tenant, and/or (iii) any failure on Master Tenant's part to comply with any of the covenants, terms, conditions, representations or warranties contained in this Agreement; *provided*, *however*, that in no event shall the foregoing indemnity apply to any damages arising out of, or because of, the negligence or willful misconduct of Landlord or its agents, employees, officers and directors. This indemnity extends to liability for expenses (including, without limitation, reasonable attorneys' fees and out-of-pocket expenses at both trial and appellate levels) actually incurred by Landlord in defending any action or proceeding (a) instituted against Landlord by a third party, or in which Landlord intervenes, or against Master Tenant in which Landlord is made a party or appears and (b) to which the foregoing indemnity would apply.

16.2 Landlord shall not be liable to Master Tenant and Master Tenant hereby waives all claims against Landlord for any injury, illness or death of any person or damage to any property in or about the Project unless caused by the negligence or willful misconduct of Landlord or its agents, contractors, employees, officers and directors.

16.3 In the event Master Tenant is obligated to pay or pays any obligations of Landlord under a Permitted Mortgage out of Master Tenant's own funds that is not otherwise an obligation of Master Tenant under this Agreement, Landlord shall be severally liable to Master Tenant for the reimbursement of such Landlord's share of such amount paid. Landlord shall reimburse Master Tenant for any such amount within thirty (30) days of a demand for reimbursement from Master Tenant. Master Tenant may deduct an amount equal to the reimbursement from any Rent due under this Agreement, including any Accrued Rent. Notwithstanding the foregoing, so long as a Permitted Mortgage is outstanding, Master Tenant shall not abate any Base Rent or Impositions and any obligation of Landlord to indemnify any party as set forth in this Agreement shall be fully subordinate to all obligations of Landlord under the Loan Documents and will not constitute a claim against Landlord to the extent cash flow in excess of the amount required to pay all debt service and fees under the Loan Documents is insufficient to pay such obligations.

16.4 The terms, covenants, provisions and conditions of this Section 16 shall survive the termination of this Agreement.

17. Damage or Destruction.

17.1 In the event of any material casualty to the Project, Master Tenant shall promptly give written notice to Landlord thereof. Subject to the terms of Sections 17.2 and 17.3, Master Tenant shall be responsible for the Restoration of the Project and Master Tenant shall be entitled to the use of all available proceeds from any insurance for purposes of completing the Restoration. In such event this Agreement shall continue in full force and effect, without any reduction of Rent, unless otherwise set forth below.

17.2 If the proceeds from any casualty insurance are insufficient to complete the Restoration, Master Tenant shall fund any excess required to complete the Restoration, except for funds attributed to

Landlord Capital Improvements and to costs (i) attributable to the negligence or willful misconduct of Landlord or its agents, (ii) incurred when Landlord or its agents have taken control or possession of the Project; or (iii) incurred after the expiration of the Agreement ("**Landlord Casualty Costs**"). Subject to the terms of the Loan Documents then in effect, any casualty proceeds in excess of the cost of Restoration shall be payable to, and retained by, Master Tenant except for any excess funds attributable to Landlord Casualty Costs which shall be retained by Landlord. Landlord shall provide Master Tenant with the funds necessary to fund any costs to complete the Restoration for Landlord Capital Improvements. Absent receipt of Landlord's agreement to fund such excess amounts within fifteen (15) days, Master Tenant may elect to terminate this Agreement upon notice to Landlord within twenty (20) days after the expiration of the foregoing fifteen (15) day period.

17.3 If the casualty occurs within the last twelve (12) months of the Term, and the casualty affects more than 50% of the Project, Master Tenant may elect to terminate this Agreement, rather than undertake and complete the Restoration, without regard to the availability of proceeds from insurance or from Landlord. Notwithstanding the foregoing, Master Tenant may not elect to terminate this Agreement pursuant to the preceding sentence if such termination would constitute a default under any Permitted Mortgage and, in the event such termination would constitute a default under a Permitted Mortgage, or if Restoration is otherwise required by such Permitted Mortgage, Master Tenant shall complete the Restoration in accordance with the terms of this Section.

17.4 In the event that this Agreement is terminated pursuant to this Section 17, then the Rent shall be prorated to the date of termination. In the event that some or all of the Project cannot be restored, and Landlord and Master Tenant elect not to terminate this Agreement, then the Additional Rent and Supplemental Rent shall be reduced (and Master Tenant shall be credited for prior overpayments) by an amount reasonably determined by Landlord and Master Tenant.

17.5 Except as provided herein, no destruction of or damage to the Project or any part thereof by fire or any other casualty shall permit Master Tenant to surrender this Agreement or shall relieve Master Tenant from Master Tenant's liability to pay the full Rent under this Agreement or from any of Master Tenant's other obligations under this Agreement. Master Tenant waives any rights now or hereafter conferred upon Master Tenant by statute or otherwise to quit or surrender this Agreement or the Project or any part thereof, or to any suspension, diminution, abatement or reduction of rent on account of any such destruction or damage except as expressly set forth herein.

17.6 For the avoidance of doubt, the provisions of this Section 17 (and the use and administration of any insurance proceeds) are subject in all cases to the terms and conditions of (and any related requirements imposed under) the Loan Documents.

18. Condemnation.

18.1 Subject to any Loan Documents, in case of a Taking of all of the Project, this Agreement shall terminate and expire as of the Vesting Date and the Rent under this Agreement shall be apportioned and paid to the Vesting Date.

18.2 Subject to any Loan Documents, in case of a Taking of less than all of the Project, Landlord shall receive the entire award for the Taking and, except as specifically set forth in this Section, no claim or demand of any kind shall be made by Master Tenant against Landlord or any other party who could, by virtue of a claim against it, make a claim against Landlord by reason of such Taking.

18.2.1 In the case of a Taking of a portion, but less than all, of the Project, Master Tenant shall determine, in Master Tenant's reasonable discretion, whether the remaining Project (after Restoration referred to in Section 18.2.3) (i) can be used for the Use and (ii) will allow Master Tenant to complete the Restoration for an amount not to exceed the proceeds from the Taking. If it

is determined by Master Tenant that the remaining Project cannot be used for the Use, then and in such event this Agreement shall terminate as of the Vesting Date and, subject to the Loan Documents, the Rent shall be apportioned and paid to the date of termination and no other claim or demand of any kind shall be made by Landlord against Master Tenant by reason of such termination. If it is determined that Master Tenant cannot complete the Restoration for an amount that is less than or equal to the proceeds from the Taking then and in such event Master Tenant can elect to terminate this Agreement as of the Vesting Date and the Rent shall be apportioned and paid to the date of termination and no other claim or demand of any kind shall be made by Landlord against Master Tenant by reason of such termination; *provided*, *however*, that if there is at least twelve (12) months remaining in the Term, Landlord may agree to pay the excess Restoration expenses in which case this Agreement shall not terminate and Master Tenant shall undertake the Restoration of the Project in accordance with the terms of Section 18.2.3. Anything in this Agreement to the contrary notwithstanding, this Agreement will not terminate and Base Rent and the obligation to pay Impositions and other escrows required under the Loan Documents will not abate while any Permitted Mortgage is outstanding.

18.2.2 If, in the case of a Taking of less than all of the Project, this Agreement is not terminated in accordance with the provisions of Section 18.2.1, this Agreement shall continue in full force and effect as to the remaining portion of the Project without any reduction in the Rent, except as expressly provided in Section 18.3. No such partial Taking shall operate as or be deemed an eviction of Master Tenant from that portion of the Project not affected by such partial Taking or in any way terminate, diminish, suspend, abate or impair the obligation of Master Tenant to observe and perform fully all the covenants of this Agreement on the part of Master Tenant to be performed with respect to the remainder of the Project unaffected by the partial Taking, except as to any reduction (if any) in the Rent as expressly provided in Section 18.3.

18.2.3 If, in the case of a Taking of less than all of the Project, this Agreement is not terminated in accordance with the provisions of Section 18.2.1, Master Tenant shall, prior to the expiration of the Term of this Agreement, commence and proceed with reasonable diligence to complete the Restoration; *provided*, *however*, that Landlord shall, in this case, make the award in the Condemnation Proceedings and, in the case of Section 18.2.1, such award plus any excess funds due from Landlord, available to Master Tenant to be utilized for Restoration of the Project. Landlord shall be entitled to receive and retain the remainder of the award not needed to complete the Restoration.

18.3 In case of a Taking of less than all of the Project and if (i) this Agreement shall not terminate as provided in Section 18.2.1, and (ii) Restoration has been undertaken by Master Tenant pursuant to the provisions of Section 18.2.3, then commencing as of the Vesting Date, the amount of the Additional Rent and Supplemental Rent payable by Master Tenant under this Agreement shall be reduced (and Master Tenant shall be credited for prior overpayments) by an amount reasonably determined by Landlord and Master Tenant. The new Additional Rent and Supplemental Rent shall be established to provide Master Tenant and Landlord with the same economic return that each were entitled prior to the Taking.

18.4 Each of Landlord and Master Tenant shall promptly deliver to the other any notices it receives with respect to a Condemnation Proceeding or threatened Condemnation Proceeding.

18.5 Notwithstanding anything herein to the contrary, Master Tenant's and Landlord's rights and obligations in and to any condemnation proceeding or related proceeds derived therefrom shall, in all cases, be subject to the rights of the holder of any Permitted Mortgage under the Loan Documents.

19. Assignment, Subletting and Mortgaging.

19.1 Master Tenant may not sell, assign, transfer, mortgage, pledge or otherwise dispose of this Agreement or any interest of Master Tenant in this Agreement, except with Landlord's prior written consent. Master Tenant understands and acknowledges that Landlord will not approve any such transfer in the event that Landlord is a DST.

19.2 If an assignment is consented to by Landlord, no such assignment shall be valid unless (i) such permitted assignment complies with the provisions of this Agreement, and (ii) there shall be delivered to Landlord in proper form for recording on the date of assignment (a) a duplicate original of the instrument of assignment, and (b) an instrument of assumption by the transferee of all of Master Tenant's obligations under this Agreement, including, without limitation, any unperformed obligations which have accrued as of the date of the assumption. Any such permitted assignee shall thereafter have all of the power, authority, rights, duties, obligations and liabilities of Master Tenant hereunder. The new Master Tenant shall be liable for the payment of all Rent due hereunder and the performance of all terms, covenants and conditions to be performed by Master Tenant under this Agreement, and Master Tenant shall reaffirm the same to Landlord in writing, in recordable form acceptable to Landlord, prior to such transfer. Any single consent given by Landlord hereunder shall not be deemed a waiver of Landlord's right to future requests for consent under this Section. If Landlord is requested to approve a proposed assignment or sublease, Master Tenant shall be responsible for paying the fees and expenses of Landlord's counsel for reviewing and/or preparing the appropriate materials and documents.

19.3 Without limiting in any way the rights and remedies of Landlord hereunder, at law or in equity, but in addition thereto, any purported assignment, transfer, mortgage, pledge, disposition or encumbrance in contravention of the provisions of this Section shall be null and void and of no force and effect, but this shall not impair any remedy of Landlord because of Master Tenant having engaged in any act prohibited by, or in contravention of, the terms hereof.

19.4 Notwithstanding the above, Master Tenant may sublet the whole or any portion of the Project without the necessity of obtaining Landlord's prior consent; *provided*, *however*, that no such subletting shall be valid unless such permitted subletting complies with the provisions herein set forth and with the Loan Documents. Without in any way limiting the rights and remedies of Landlord hereunder, but in addition thereto, any purported subletting in contravention hereof shall be null and void and of no force and effect and not thereby impair any right or remedy available to Landlord as the result of Master Tenant's having engaged in an act prohibited by, or in contravention of, the terms hereof, nor shall such permitted subletting relieve Master Tenant of any of Master Tenant's obligations hereunder and Master Tenant assumes and shall be responsible for and shall be liable to Landlord for all acts on the part of any present or future Sublessee, which, if done by Master Tenant would constitute a Default hereunder. Notwithstanding anything contained herein to the contrary, in the event that Landlord is a DST, Master Tenant shall not have the right to enter into Subleases that extend beyond the Term of this Agreement. Notwithstanding anything contained herein to the contrary, in the event that Landlord is not a DST, Master Tenant shall have the right to enter into Subleases that extend beyond the Term of this Agreement without receiving the prior consent of Landlord so long as such Subleases comply with the following provisions:

19.4.1 Each Sublease shall be deemed by law subject and subordinate to this Agreement;

19.4.2 Each Sublease shall be with a bona-fide arm's length Sublessee;

19.4.3 No Sublease shall contain any rental concessions or other concessions which are not then customary and reasonable for similar properties and leases in the market area of the Project as reasonably determined by Master Tenant;

19.4.4 The rental rate for each Sublease shall be at least at the market rate then prevailing for similar properties and leases in the market areas of the Project as reasonably determined by Master Tenant;

19.4.5 No Sublease shall have the rent paid thereunder calculated based on the net income of the subtenant; *provided*, *however*, that the rent may be calculated based on gross income of the subtenant; and

19.4.6 Each Sublessee under the Sublease demonstrates sufficient credit worthiness to support the Sublease payments as reasonably determined by Master Tenant or the Sublessee provides for (i) a sufficient security deposit or (ii) guarantee, all as reasonably determined by Master Tenant.

For proposed Subleases with terms that exceed the Term of this Agreement and do not comply with the above provisions, Master Tenant must obtain Landlord's prior approval.

19.5 Any application by Master Tenant for Landlord's written consent under any paragraph of this Section 19 shall be made in writing to Landlord.

19.6 Master Tenant hereby assigns to Landlord all rents due or to become due from any present or future Sublessee, *provided* that so long as Master Tenant is not in Default hereunder, Master Tenant shall have the right to collect and receive such rents for Master Tenant's own uses and purposes. The effective date of Landlord's right to collect rents shall be the date of the happening of a Default under Section 20. Upon a Default, Landlord shall apply any net amount collected by Landlord from Sublessees to the Rent due under this Agreement. No collection of rent by Landlord from an assignee of this Agreement or from a Sublessee shall constitute a waiver of any of the provisions of this Section or an acceptance of the assignee or Sublessee as a tenant or a release of Master Tenant from performance by Master Tenant of Master Tenant's obligations under this Agreement. Master Tenant without the prior consent of Landlord in writing, shall not directly or indirectly collect or accept any payment of subrent (exclusive of security deposits) under any sublease more than 1 month in advance of the date when the same shall become due.

19.7 Any attempted sublease or assignment in violation of the requirements of this Section 19 shall be null and void and, at the option of Landlord, shall constitute a Default by Master Tenant under this Agreement. To the extent consent is required, the giving of consent by Landlord in one instance shall not preclude the need for Master Tenant to obtain Landlord's consent to further sublettings or assignments under this Section 19. If Landlord's approval is required and obtained, Master Tenant or the prospective sublessee or assignee shall be responsible for preparing the appropriate documentation and shall reimburse Landlord for Landlord's reasonable costs and expenses in reviewing and approving the Sublease or assignment and related documentation.

19.8 If Master Tenant is in Default hereunder pursuant to Section 20.1.1 and Master Tenant elects to assume this Agreement and then proposes to assign the same pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. Section 10.1 et seq. (the "**Bankruptcy Code**") to any person or entity who shall have made a bona fide offer to accept an assignment of this Agreement on terms acceptable to Master Tenant then notice of such proposed assignment, setting forth (i) the name and address of such person, (ii) all the terms and conditions of such offer, and (iii) the adequate assurances to be provided to Landlord to ensure such person's future performance under this Agreement, including, without limitation, the assurances referred to in Section 365(b)(d) of the Bankruptcy Code, shall be given to Landlord by Master Tenant no later than twenty (20) days after receipt thereof by Master Tenant, but in any event no later than ten (10) days prior to the date that Master Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option to be exercised by notice to Master Tenant given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person less any

brokerage commissions which may be payable out of the consideration to be paid by such person for the assignment of this Agreement. Any and all monies or other consideration constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid to or turned over to Landlord. Any person or entity to which this Agreement is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Agreement on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument in form, scope and substance acceptable to Landlord, confirming such assumption.

19.9 Landlord may assign its rights under this Agreement to the Springing LLC without consent or approval of Master Tenant ("**Successor Landlord**"). The Successor Landlord shall take such interest subject to this Agreement, and the assigning Landlord and Successor Landlord shall execute an agreement whereby (a) the assigning Landlord assigns to the Successor Landlord all of its right, title and interest in and to this Agreement; and (b) the Successor Landlord assumes and agrees to perform faithfully and to be bound by all of the terms, covenants, conditions, provisions and agreements of this Agreement with respect to the interest to be transferred. Upon execution of such assignment and assumption agreement, the assigning Landlord shall be relieved of all liability accruing after the effective date of the assignment with respect to the interest so assigned and, without further action by any party, the Successor Landlord shall become a party to this Agreement.

19.10 Every assignee and Sublessee hereunder, if not a natural person, shall be formed and existing under the laws of a state, district or commonwealth of the United States of America.

20. Events of Default and Landlord's Remedies.

20.1 Each of the following shall be deemed a "Default" by Master Tenant, and after the occurrence of any of the following, Master Tenant shall be "in Default" under this Agreement:

20.1.1 A failure on the part of Master Tenant to pay any installment of Base Rent or Additional Rent (subject to Master Tenant's right to defer payment of Additional Rent and Supplemental Rent pursuant to Section 4.2) on the date such Base Rent or Additional Rent becomes due, which failure is not cured within ten (10) days after Landlord delivers written notice of such failure to Master Tenant;

20.1.2 A failure (i) on the part of Master Tenant, whether by action or inaction, to observe or perform any of the other terms, covenants or conditions of this Agreement, or (ii) of any material representation or warranty made by Master Tenant in this Agreement to be accurate in all material respects, which failure to observe or perform or to be accurate (or, in the case of an inaccurate representation or warranty, the adverse effect therefrom) is not cured within thirty (30) days after Landlord delivers written notice of such failure to Master Tenant, *provided*, *however*, that if such failure (or, if applicable, adverse effect) is subject to cure but cannot be cured within such 30 day period, Master Tenant shall not be in Default hereunder if it promptly commences, and diligently pursues, the curing of such failure or adverse effect; *provided further*, *however*, that if such cure period shall exceed ninety (90) days, and such Default is not the result of an affirmative act by Master Tenant, then Master Tenant shall thereafter be provided additional time to cure such Default. In the event that Master Tenant satisfies the standards for such additional time then Master Tenant shall provide Landlord with written notice advising Landlord of Master Tenant's reasonable estimate of the necessary cure period and Master Tenant shall thereafter provide Landlord, by way of monthly reports, the status of such cure. If Master Tenant fails to cure the failure within the originally estimated curative period, without reasonable cause, such failure shall constitute a "Default" hereunder. Notwithstanding the foregoing, Landlord, by written notice to Master Tenant, may limit the aggregate cure period to not more than one hundred and twenty (120) days;

20.1.3 The leasehold hereunder demised is taken on execution or other process of law in any action against Master Tenant;

20.1.4 If Master Tenant files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or any future applicable federal, state or other statute or law relative to bankruptcy, insolvency, or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of Master Tenant or of all or any substantial part of Master Tenant's properties or Master Tenant's interest in this Agreement; (the term "acquiesce" as used in this Section 20.1.4 includes, without limitation, the failure to file a petition or motion to vacate or discharge any order, judgment or decree within five (5) days after entry of such order, judgment or decree); or a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Master Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act, or any other present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency or other relief for debtors, and Master Tenant acquiesces in the entry of such order, judgment or decree or such order, judgment or decree remains unvacated and unstayed for an aggregate of one hundred and twenty (120) days (whether or not consecutive) from the date of entry thereof, or any trustee, receiver, conservator or liquidator of Master Tenant or of all or any substantial part of Master Tenant's property or Master Tenant's interest in this Agreement shall be appointed without the consent or acquiescence of Master Tenant and such appointment remains unvacated and unstayed for an aggregate of one hundred and twenty (120) days (whether or not consecutive);

20.1.5 If this Agreement or any estate of Master Tenant hereunder shall be levied upon under any attachment or execution and such attachment or execution is not vacated within one hundred and twenty (120) days;

20.1.6 Master Tenant or Master Tenant's general partner or manager shall cause or institute any proceeding, or a final and non-appealable court order shall be issued, for the dissolution or termination of Master Tenant or Master Tenant's general partner or manager; or

20.1.7 If Master Tenant makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors.

20.1.8 If Master Tenant defaults (past any applicable notice and/or cure period) under its obligations contained in the Assignment and Subordination.

20.2 In the event of any Default by Master Tenant as hereinabove provided in this Section, Landlord shall have the option to pursue any one or more of the following remedies without any notice (except as otherwise specifically set forth herein) or demand for possession whatsoever: (i) with ten (10) days prior written notice, terminate this Agreement, in which event Master Tenant shall immediately surrender the Project to Landlord; (ii) with ten (10) days prior written notice, terminate Master Tenant's right to occupy and possess the Project and reenter and take possession of the Project (without terminating this Agreement); (iii) enter the Project and do whatever Master Tenant is obligated to do under the terms of this Agreement and Master Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in effecting compliance with Master Tenant's obligations under this Agreement, and Master Tenant further agrees that Landlord shall not be liable for any damages resulting to Master Tenant from such action; (iv) exercise its rights under Section 9.3 of this Agreement; and (v) exercise all other remedies available to Landlord at law or in equity, including, without limitation, injunctive relief of all varieties.

20.2.1 In the event that Landlord elects to terminate this Agreement, then, notwithstanding such termination, Master Tenant shall be liable for and shall pay to Landlord the sum of all Rent accrued to the date of such termination. In the event that Landlord elects to take possession of the Project and terminate Master Tenant's right to occupy the Project without terminating this Agreement, Landlord shall have the right to enforce all its rights and remedies under this Agreement, including the right to recover all Rent as it becomes due under this Agreement. In addition, Master Tenant shall be liable for and shall pay to Landlord on demand, an amount equal to (i) the reasonable and documented out-of-pocket costs of recovering possession of the Project, (ii) the reasonable and documented out-of-pocket costs of removing and storing Master Tenant's and any other occupant's (except for all permitted Sublessees) property located therein, (iii) the reasonable and documented out-of-pocket costs of repairs to the Project accruing only during the period in which Master Tenant occupied the Project, and (iv) the reasonable and documented out-of-pocket costs of collecting any of the foregoing amounts from Master Tenant. Notwithstanding the foregoing, Landlord shall use reasonable efforts to mitigate all damages and costs resulting from any actions taken under this Agreement.

20.2.2 In the event Landlord elects to re-enter or take possession of the Project after Master Tenant's Default, Master Tenant hereby waives notice of such re-entry or repossession and of Landlord's intent to re-enter or retake possession. Landlord may, without prejudice to any other remedy which Landlord may have, expel or remove Master Tenant and any other person who may be occupying said Project or any part thereof (other than any Sublessee under a Sublease). All of Landlord's remedies shall be cumulative and not exclusive. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of Default shall not be deemed or construed to constitute a waiver of such Default.

20.2.3 This Section shall be enforceable to the maximum extent not prohibited by applicable law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion. No act by Landlord or Landlord's agents during the Term of this Agreement shall be deemed an acceptance of an attempted surrender of the Project, and no agreement to accept a surrender of the Project shall be valid unless made in writing and signed by Landlord. No re-entry or taking of possession of the Project by Landlord shall be construed as an election on Landlord's part to terminate this Agreement unless a written notice of such termination is given to Master Tenant.

20.2.4 Damages under this Section 20.2 shall be the following:

(i) the amount of any rent deficiency, to the extent that the payment of rent by the Sublessees is deficient to pay the Base Rent, Additional Rent, Supplemental Rent, all reasonable and documented legal expenses and other related reasonable and documented out-of-pocket costs incurred by Landlord following Master Tenant's Default,

(ii) all reasonable and documented out-of-pocket costs incurred by Landlord in restoring the Project to good order and condition; and

(iii) any other damages available to Landlord under applicable law.

20.3 If Landlord shall enter into and repossess the Project by reason of the Default of Master Tenant in the performance of any of the terms, covenants or conditions herein contained, then in that event Master Tenant hereby covenants and agrees that Master Tenant shall not claim the right to redeem or re-enter the Project or restore the operation of this Agreement, and Master Tenant hereby waives any right to such redemption and re-entry under any present or future law, and does hereby further, for any party claiming through or under Master Tenant, expressly waive its right, if any, to make payment of any sum or sums of rent, or otherwise, of which Master Tenant shall have been in Default under any of the covenants of this

Agreement, and to claim any subrogation to the rights of Master Tenant under this Agreement, or any of the covenants thereof, by reason of such payment.

20.4 No receipt of monies by Landlord from Master Tenant after the termination or cancellation of this Agreement in any lawful manner shall reinstate, continue or extend the Term of this Agreement, or affect any notice given to Master Tenant, or operate as a waiver of the right of Landlord to enforce the payment of Base Rent or Additional Rent then due, or operate as a waiver of the right of Landlord to recover possession of the Project by proper suit, action, proceeding or remedy: it being agreed that, after the service of notice to terminate or cancel this Agreement, or the commencement of suit, action or summary proceedings, or any other remedy, or after a final order or judgment for the possession of the Project, Landlord may demand, receive and collect any monies due, without in any manner affecting such notice, proceeding, suit, action, order or judgment; and any and all such monies collected shall be deemed to be payment on account of the use and occupation or Master Tenant's liability hereunder.

20.5 The failure of Landlord to insist in any one or more instances upon a strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall not be construed as a waiver of or relinquishment for the future of the performance of such a covenant, or the right to exercise such option, but the same shall continue and remain in full force and effect. The receipt by Landlord of Base Rent or Additional Rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

20.6 All the rights and remedies herein given to Landlord for the recovery of the Project because of the Default by Master Tenant in the payment of any sums which may be payable pursuant to the terms of this Agreement, or the right to re-enter and take possession of the Project upon the happening of any event of Default, or the right to maintain any action for rent or damages and all other rights and remedies allowed at law or in equity, are hereby reserved and conferred upon Landlord as distinct, separate and cumulative rights and remedies, and no one of them, whether exercised by Landlord or not, shall be deemed to be in exclusion of any of the others.

21. <u>Hazardous Substances</u>.

21.1 Master Tenant hereby represents, warrants, covenants and agrees to and with Landlord that all operations or activities upon, or any use or occupancy of the Project, or any portion thereof, by Master Tenant, and any tenant, subtenant or occupant of the Project, or any portion thereof, shall throughout the Term of this Agreement be in all material respects in compliance with all existing and future federal, state and local laws and regulations governing, or in any way relating to the generation, handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal of any hazardous or toxic substances, materials or wastes ("**Hazardous Substances**"), including, but not limited to, those substances, materials, or wastes now or hereafter listed in the United States Department of Transportation Hazardous Materials Table at Section 49 CFR 172.101 or by the Environmental Protection Agency in Section 40 CFR Part 332 and amendments thereto, or such substances, materials or wastes otherwise now or hereafter regulated under any applicable federal, state or local law; *provided*, *however*, household chemicals or cleaning chemicals that are customary or commonly used in the area of the Project shall not be treated as Hazardous Substances.

21.2 For the purposes of this Section, "PCB" shall include all substances included under the definition of PCB in 40 CFR Section 761.3. Master Tenant hereby represents, warrants, covenants and agrees to and with Landlord that, to the best of Master Tenant's knowledge, (i) there is not present upon the Project, or any portion thereof, or contained in any transformers or other equipment thereon, any PCB's, and (ii) Master Tenant shall throughout the Term of this Agreement not permit to be present upon the Project, or any portion thereof, or contained in any transformers or other equipment thereon, any PCBs.

21.3 Master Tenant hereby represents, warrants, covenants and agrees to and with Landlord that, to the best of Master Tenant's knowledge and except as disclosed to Landlord prior to the date hereof, (i) there is not present upon the Project, or any portion thereof, any asbestos or any structures, fixtures, equipment or other objects or materials containing asbestos, and (ii) Master Tenant shall throughout the Term of this Agreement not permit to be present upon the Project, or any portion thereof, any asbestos or any structures, fixtures, equipment or other objects or materials containing asbestos.

21.4 Master Tenant agrees to indemnify, protect, defend (with counsel approved by Landlord) and hold Landlord, and the directors, officers, shareholders, partners, members, employees and agents of Landlord, harmless from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including, without limitation, sums paid in settlement of claims), losses, including, without limitation, reasonable attorneys' fees and expenses (including, without limitation, any such fees and expenses incurred in enforcing this Agreement or collecting any sums due hereunder), consultant fees and expert fees, together with all other costs and expenses of any kind or nature (collectively, the "**Hazardous Substances Costs**") that arise directly or indirectly from or in connection with the presence or release of any Hazardous Substances in or into the air, soil, surface water, groundwater or soil vapor at, on, under, over or within the Project, or any portion thereof from and after the Commencement Date and otherwise during the Term as a result of Master Tenant's gross negligence. In the event Landlord shall suffer or incur any such Hazardous Substances Costs, Master Tenant shall pay to Landlord the total of all such Hazardous Substances Costs suffered or incurred by Landlord upon demand therefor by Landlord. Without limiting the generality of the foregoing, the indemnification provided by this Section shall specifically cover all Hazardous Substances Costs, including, without limitation, capital, operating and maintenance costs, incurred in connection with any investigation or monitoring of site conditions, any clean-up, containment, remedial, removal or restoration work required or performed by any federal, state or local governmental agency or political subdivision or performed by any nongovernmental entity or person because of the presence or release of any Hazardous Substances in or into the air, soil, groundwater, surface water or soil vapor at, on, under, over or within the Project (or any portion thereof), as well as any claims of third parties for loss or damage due to such Hazardous Substances. In addition, the indemnification provided by this Section shall include, without limitation, all liability, loss and damage sustained by Landlord due to any Hazardous Substances that migrate, flow, percolate, diffuse or in any way move onto, into or under the air, soil, groundwater, surface water or soil vapor at, on, under, over or within the Project (or any portion thereof) after the date of this Agreement, *provided*, *however*, that the provisions of this Section shall not apply to Hazardous Substances Costs associated with the release, discharge, disposal, dumping, spilling or leaking onto the Project of Hazardous Substances occurring (i) as a result of the negligence or willful misconduct of any or all of Landlord and its agents, contractors, employees, officers or directors, (ii) at any time when Landlord or its agent is in control, or has taken possession of, the Project or (iii) after the expiration of this Agreement (collectively, "**Landlord Environmental Costs**"). Landlord agrees to indemnify, protect, defend (with counsel approved by Master Tenant) and hold Master Tenant, and the directors, officers, shareholders, partners, members, employees and agents of Master Tenant, harmless from and against any and all Landlord Environmental Costs.

21.5 In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively the "**Remedial Work**") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, Master Tenant shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, order or agreement. All Remedial Work shall be performed by one or more contractors all of whom shall have all necessary licenses and expertise to perform such work. The contractor or contractors (selected by Master Tenant) shall perform the Remedial Work under the supervision of an environmental consulting engineer, selected by Master Tenant and approved in advance in writing by Landlord. All costs

and expenses of such Remedial Work shall be paid by Master Tenant to the extent arising during the Term or from facts occurring during the Term or, if otherwise, by Landlord, including, without limitation, the charges of such contractor(s) and/or the environmental consulting engineer (excluding specifically, however, Landlord's attorneys' fees and expenses incurred in connection with monitoring or review of such Remedial Work). In the event Master Tenant shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Landlord may, but shall not be required to, cause such Remedial Work to be performed, and all costs and expenses thereof, or incurred in connection therewith, shall be Hazardous Substances Costs within the meaning of this Section. All such Hazardous Substances Costs shall be due and payable upon demand therefor by Landlord.

21.6 Landlord reserves the right, to be exercised from time to time during the Term of this Agreement, to inspect or cause Landlord's contractors and/or environmental consulting engineers to inspect the Project in order to confirm that no Hazardous Substances are located on, in or under any portion of the Project, *provided*, *however*, that Landlord or its contractor or engineer, as applicable, shall have provided evidence of insurance satisfactory to Master Tenant with respect to any actions taken on the Project. The fees and expenses incurred by Landlord with respect to said inspections shall be paid by Landlord. If any Hazardous Substances are discovered by said inspection to be located on, in or under the Project, Master Tenant shall, at Master Tenant's sole cost and expense if they arise during the Term or from facts occurring during the Term or otherwise at Landlord's sole cost and expense, (and in addition to Master Tenant's other obligations and liabilities under this Section): (i) forthwith have all such Hazardous Substances removed from the Project if and to the extent required by applicable laws, ordinances, rules and regulations, (ii) dispose of all Hazardous Substances so required to be removed in accordance with all applicable laws, ordinances, rules and regulations, and (iii) restore the Project, *provided*, *however*, that the provisions of this Section shall not apply to release, discharge, disposal, dumping, spilling or leaking onto the Project of Hazardous Substances occurring (i) as a result of the negligence or willful misconduct of any or all of Landlord and its agents, contractors, employees, officers or directors, (ii) at any time when Landlord or its agent is in control, or has taken possession of, the Project or (iii) after the expiration of this Agreement, all of which shall be the responsibility of Landlord. Nothing contained in this Section 21.6 shall be deemed or construed to amend, modify or replace any other obligation of Master Tenant set forth in this Section 21.

21.7 Each of the covenants, agreements, obligations, representations and warranties of Master Tenant set forth in this Section shall survive the expiration or sooner termination of this Agreement.

22. Subordination.

22.1 Master Tenant and Landlord agree that this Agreement shall be subordinate at all times to the terms and conditions and provisions of the Loan Documents and the lien of any Permitted Mortgage.

22.2 Master Tenant acknowledges and agrees that its leasehold rights created by this Agreement are intended to be subordinate to the financing that is secured by a Permitted Mortgage. Master Tenant agrees, in consideration of Landlord's commitment to enter into this Agreement, and the grant of the related rights to Master Tenant hereunder, to execute certain of the Loan Documents comprising, and to subordinate its interest in certain of its assets to the interest of Lender under a Permitted Mortgage. Landlord and Master Tenant agree that Master Tenant shall subordinate its interests in such assets, as described in the applicable Loan Documents, to any of the foreclosure rights held by Lender under a Permitted Mortgage arising in, from and under such Loan Documents.

23. General Provisions.

23.1 This Agreement shall not be affected by any laws, ordinances or regulations, whether federal, state, county, city, municipal or otherwise, which may be enacted or become effective from and after the date of this Agreement affecting or regulating or attempting to affect or regulate the Rent herein

reserved or continuing in occupancy Master Tenant or any Sublessees or assignees of Master Tenant's interest in the Project beyond the dates of termination of their respective leases, or otherwise.

23.2 Title headings are inserted for convenience only, and do not define or limit, and shall not be used to construe, any Section or section to which they relate.

23.3 The acceptance by Landlord of a check or checks drawn by others than Master Tenant shall in no way affect Master Tenant's liability hereunder nor shall it be deemed an approval of any assignment of this Agreement or any sublease of all or a part of the Project not consented to by Landlord or an approval of Master Tenant not complying with any covenant of this Agreement.

23.4 This Agreement (including the attached Exhibits) contains the entire agreement between the parties regarding the subject matter hereof, and any agreement hereafter made shall not operate to change, modify or discharge this Agreement in whole or in part unless such agreement is in writing and signed by the party sought to be charged therewith.

23.5 Landlord and Master Tenant shall each, without charge, at any time and from time to time, promptly after request by the other party, certify by written instrument, duly executed, acknowledged and delivered, to the other party or any person, firm or corporation specified by the other party:

23.5.1 that this Agreement is unmodified and in full force and effect or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications;

23.5.2 whether or not there are then existing any set-offs or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof and any modifications thereof upon the part of Master Tenant to be performed or complied with, and, if so, specifying the same;

23.5.3 the dates, if any, to which the Rent and other charges hereunder have been paid, and the Rent.

23.6 The term "**Landlord**" as used in this Agreement means only the party(ies) that have executed this Agreement as Landlord as of the date hereof and their respective successors and assigns including but not limited to any Successor Landlord. So long as this Agreement survives any such transfer and Master Tenant's rights and obligations hereunder are not materially adversely affected (or this Agreement terminated pursuant to Section 3.8), Landlord may, subject to any other restrictions under applicable law or other agreements governing the interests of the owners, including any Permitted Mortgage, sell, exchange, assign, mortgage or otherwise encumber, convey or transfer its fee interest in the Project or some or all of its interest in this Agreement during the term of this Agreement; *provided* that such assignee shall execute and deliver an instrument providing for an assignment and assumption of this Agreement. Any such successor or assign of Landlord shall be deemed a permitted Successor Landlord.

23.7 Any notice, demand, request or other communication which may be permitted, required or desired to be given in connection herewith shall be given in writing and directed to Landlord and Master Tenant as follows:

Landlord: FREX DB Series I DST
c/o FREX Manager Series I LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: David Hammerman (dhammerman@fortress.com);
David Moson (dmoson@fortress.com);
GC – Credit Funds (gccredit@fortress.com);
Eli Edwards (eedwards@fortress.com); and

Kerry Campelo (kcampelo@fortress.com)

Master Tenant: FREX DB LeaseCo Series I LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: David Hammerman (dhammerman@fortress.com);
David Moson (dmoson@fortress.com);
GC – Credit Funds (gccredit@fortress.com);
Eli Edwards (eedwards@fortress.com); and
Kerry Campelo (kcampelo@fortress.com)

Notices shall be deemed properly delivered and received (i) the same day when personally delivered; (ii) one business day after timely deposit for delivery the next business day with Federal Express or another nationally recognized commercial overnight courier, charges prepaid; (iii) the same day when sent by confirmed facsimile; or (iv) three (3) business days after deposit in the United States mail, postage prepaid. Any party may change its address for delivery of notices by properly notifying the others pursuant to this Section. The parties hereto hereby authorize their respective attorneys to give notices on their behalf.

23.8 Master Tenant, upon paying the Rent due hereunder and performing the other terms, provisions and covenants of this Agreement on Master Tenant's part to be performed, shall, and may, at all times during the Term of this Agreement peaceably and quietly have, hold and enjoy the Project, subject to the terms hereof.

23.9 In the event of a merger, consolidation, acquisition, sale or other disposition involving Master Tenant or all or substantially all the assets of Master Tenant to one or more other entities, in addition to the other requirements set forth in this Agreement, the surviving entity or transferee of assets, as the case may be, shall: (i) be formed and existing under the laws of a state, district or commonwealth of the United States of America, and (ii) deliver to Landlord an acknowledged instrument in recordable form assuming all obligations, covenants and responsibilities of Master Tenant under this Agreement and under any instrument executed by Master Tenant relating to the Project or this Agreement.

23.10 There shall be no merger of this Agreement or Master Tenant's leasehold estate with the fee estate in the Project by reason of the fact that the same person acquires or holds, directly or indirectly, this Agreement of the leasehold estate or any interest therein as well as any of the fee estate in the Project. The initial Landlord and Master Tenant specifically waive and disclaim any merger of the fee and leasehold estates in the Project, it being their intention to hold separate and independent estates in the Project pursuant to this Agreement.

23.11 This Agreement may be executed in two or more counterparts, and all such counterparts shall be deemed to constitute but one and the same instrument.

23.12 Any consent granted by a party under this Agreement shall not constitute a waiver of the requirement for consent in subsequent cases. Where Landlord's consent is required, Master Tenant shall be required to obtain further consent in each subsequent instance as if no consent had been given previously and in any event, Landlord's consent shall not be unreasonably withheld, conditioned or delayed.

23.13 Except as otherwise provided herein in the event of any action or proceeding at law or in equity between Landlord and Master Tenant including, without limitation, an action or proceeding between Landlord and the trustee or debtor in a proceeding under the Bankruptcy Code to enforce any provision of this Agreement or to protect or establish any right or remedy of either Landlord or Master Tenant hereunder, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred in such action

or proceeding and in any appeal in connection therewith by such prevailing party, whether or not such action, proceeding or appeal is prosecuted to judgment or other final determination, together with all costs of enforcement and/or collection or any judgment or other relief. The term "prevailing party" shall include, without limitation, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment. If such prevailing party shall recover judgment in any such action, proceeding or appeal, such costs, expenses and attorneys' fees and expenses shall be included in and as a part of such judgment, together with all costs of enforcement and/or collection of any judgment or other relief.

23.14 Each provision of this Agreement shall be separate and independent and the breach of any provision by Landlord shall not discharge or relieve Master Tenant from any of Master Tenant's obligations, except to the extent Master Tenant has duly performed any such obligations of Master Tenant. Each provision shall be valid and shall be enforceable to the extent not prohibited by law. If any provision or its application to any persons or circumstance shall be invalid or unenforceable, the remaining provisions, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected. Subject to Section 22.6, all provisions contained in this Agreement shall be binding upon, inure to the benefit of, and shall be enforceable by the successors and assigns of Landlord to the same extent as if each such successor and assign were named as a party to this Agreement. Subject to Section 19, all provisions contained in this Agreement shall be binding upon the successors and assigns of Master Tenant and shall inure to the benefit of and be enforceable by the successors and assigns of Master Tenant, in each case to the same extent as if each such successor and assign were named as a party.

23.15 The relationship of the parties to this Agreement is landlord and tenant. Landlord is not a partner or joint venturer with Master Tenant in any respect or for any purpose in the conduct of Master Tenant's business or otherwise.

23.16 It is expressly agreed that this Agreement shall not be recorded in any public office, however, at Master Tenant's or Landlord's option, simultaneously with the execution of this Agreement, the parties shall execute and acknowledge a memorandum of this Agreement (together with any affidavit or other instrument required in connection therewith) which shall be recorded. Within ten (10) days following the expiration or sooner termination of this Agreement, Master Tenant shall execute and deliver to Landlord an instrument, in recordable form, confirming the termination of this Agreement which instrument, at Landlord's option, may be placed of record in the real estate title records in the county in which the Project are located and the cost of recording such instrument shall be shared equally by Landlord and Master Tenant. Master Tenant's obligations under the immediately preceding sentence hereof shall survive the expiration or sooner termination of this Agreement.

23.17 Each person executing this Agreement on behalf of Landlord does hereby represent and warrant that: (a) Landlord is duly organized and in good standing in the State of its organization and, if different, qualified to do business and in good standing in the State(s) in which the Project is located, (b) Landlord has full lawful right and authority to enter into this Agreement and to perform all its obligations hereunder, and (c) each person (and all of the persons if more than one signs) signing this Agreement on behalf of Landlord is duly and validly authorized to do so. Master Tenant may, upon any failure by Landlord, pay directly to the applicable governmental authorities, any recurring organizational expenses and complete any recurring organizational filings, for and on behalf of Landlord which are necessary to maintain the organizational existence of Landlord.

23.18 Each person executing this Agreement on behalf of Master Tenant does hereby represent and warrant that: (a) Master Tenant is duly organized and in good standing in the State of its organization and, if different, qualified to do business and in good standing in the State(s) in which the Project is located, (b) Master Tenant has full lawful right and authority to enter into this Agreement and

to perform all of its obligations hereunder, and (c) each person signing this Agreement on behalf of Master Tenant is duly and validly authorized to do so.

23.19 Except with respect to a default or breach under Section 20, Master Tenant shall look solely to Landlord's interest in the Project (including any proceeds from the sale thereof and all insurance proceeds and condemnation awards relating thereto) for the recovery of any judgment against Landlord on account of Landlord's breach of any of Landlord's covenants or obligations under this Agreement. Except with respect to a default or breach under Section 20, Landlord, and the directors, officers, trustees, partners, members, owners, employees and agents of Landlord, shall never have any personal liability for any breach of any covenant or obligation of Landlord under this Agreement and no recourse shall be had or be enforceable against the assets of Landlord other than the interest of Landlord in the Project (including any proceeds from any sale or transfer thereof and all insurance proceeds and condemnation awards relating thereto) for payment of any sums due to Master Tenant or enforcement of any other relief based upon any claim made by Master Tenant for breach of any of Landlord's covenants or obligations under this Agreement. Master Tenant's right to recover for a breach or default under Section 20 shall not be limited or restricted in any way and, with respect to any such breach or default under Section 20, Master Tenant shall have the right to pursue any and all remedies available to Master Tenant against Landlord or its members and managers.

23.20 At least as frequently as at the end of each calendar quarter during the Term of this Agreement, Master Tenant shall deliver to Landlord, (i) an operating statement with respect to the Project for such quarter, (ii) a rent roll as of the last day of such quarter setting forth each Sublease of the Project, the rent payable under each such Sublease and the expiration date of each such Sublease, and (iii) a report describing any structural alterations that have been made to the Project during such quarter. Master Tenant shall also provide to Landlord such other reports with respect to the Project as may be required under any Permitted Mortgage. Landlord agrees that any information provided to it pursuant to this Section shall remain confidential and shall not, except as otherwise required by applicable law or judicial order, be disclosed to anyone except (i) Landlord's employees, attorneys and financial consultants (ii) any potential purchasers of the Project, (iii) any potential Lender associated with any possible financing secured by a Permitted Mortgage, and (iv) to the extent required under a Permitted Mortgage, to the holder of such Permitted Mortgage.

23.21 To the extent that the Landlord serves as the "borrower" in connection with any financing encumbering the Project, the Master Tenant hereby waives its rights to claim that this Agreement creates a *de facto* guaranty relationship between the Landlord and the Master Tenant, or entitles the Master Tenant to guarantor protections in connection with such financing.

23.22 At least as frequently as at the end of each calendar quarter during the Term of this Agreement, Master Tenant shall deliver to each Lender the reports required under any Permitted Mortgage or pursuant to any Lender Requirements. Master Tenant promptly shall notify Landlord of the date and contents of any such delivery. Landlord agrees that any information provided to it pursuant to this Section shall remain confidential and shall not, except as otherwise required by applicable law or judicial order, be disclosed to anyone except (i) Landlord's employees, attorneys and financial consultants, (ii) any potential purchasers of the Project, (iii) any potential lender associated with any possible refinancing of the loan secured by a Permitted Mortgage, and (iv) to the extent required under a Permitted Mortgage, to the holder of the Permitted Mortgage.

24. Indemnification by Master Tenant.

24.1 Master Tenant shall indemnify, defend and hold Landlord and its shareholders, officers, directors and employees harmless from any and all claims, demands, causes of action, losses, damages, fines, penalties, liabilities, costs and expenses, including reasonable attorneys' fees and court costs, sustained

or incurred by or asserted against Landlord by reason of the acts of Master Tenant which arise out of the gross negligence, willful misconduct or fraud of Master Tenant, its agents or employees or Master Tenant's breach of this Agreement. If any person or entity makes a claim or institutes a suit against Landlord on a matter for which Landlord claims the benefit of the foregoing indemnification, then (a) Landlord shall give Master Tenant prompt notice thereof in writing; (b) Master Tenant may defend such a claim or action by counsel of its own choosing, *provided* that such counsel is reasonably satisfactory to Landlord; and (c) neither Landlord nor Master Tenant shall settle any claim without the other's written consent.

24.2 Master Tenant acknowledges that Landlord may enter into Loan Documents, which may include provisions for personal liability for Landlord on certain "nonrecourse carve-outs." Master Tenant hereby agrees that to the extent that Landlord is required to make payments on such indemnification as a direct result of i) Master Tenant's fraud, willful misconduct or misappropriation, ii) Master Tenant's commission of a criminal act, iii) the misapplication by Master Tenant of any funds derived from the Project received by Master Tenant, including any failure to apply such proceeds in accordance with Lender Requirements, or iv) damage or destruction to the Project caused by acts of Master Tenant that are grossly negligent, Master Tenant will indemnify Landlord for any such liability that was caused by such actions.

25. **Jurisdiction and Venue**. This Agreement shall be construed and enforced in accordance with the laws of the state in which the real estate asset identified on **Exhibit B** associated with the dispute is located without regard to any applicable conflicts of laws principles that would require the application of the law of any other jurisdiction. All actions arising out of or relating to this Agreement shall be heard and determined exclusively by a court of competent jurisdiction located in the state in which real estate asset identified on **Exhibit B** associated with the dispute is located, and each party hereto expressly and irrevocably consents and submits to personal jurisdiction therein.

26. **Waiver of Jury Trial**. Landlord and Master Tenant hereby each waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of Landlord and Master Tenant, Master Tenant's use or occupancy of said Project, or any claim or injury or damage (to the extent such waiver is enforceable by law in such circumstance), and any emergency statutory or any other statutory remedy.

27. **Easements; Estoppels; Attornment**.

27.1 Master Tenant agrees that Landlord shall have the right, at one or more times during the Term to grant public utility easements, over, under or across the Project; *provided*, *however*, that such grants do not unreasonably interfere with Master Tenant's development or use of the Project, such easements are located in the landscaped area of the Project and are at no additional cost or expense to Master Tenant. The parties shall mutually cooperate in fixing the exact location in the future of such items.

27.1.1 Estoppel Certificates. Master Tenant agrees that within twenty (20) days after request by Landlord, to execute, acknowledge and deliver to and in favor of any proposed Lender or purchaser of the Project, an estoppel certificate stating: (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been modified or amended and, if so, identifying and describing any such modification or amendment; (iii) the commencement and expiration dates of this Agreement; (iv) whether Master Tenant is in possession of the Project and open and operating the Project; (v) the date to which rent and any other charges have been paid; (vi) whether Master Tenant or any guarantor of the Agreement is presently the subject of any proceeding pursuant to the United States Bankruptcy Code of 1978, as amended; (vii) whether such party knows of any default on the part of the other party or has any claim against the other party and, if so, specifying the nature of such default or claim; (viii) whether Master Tenant is entitled to any credits, reductions, offsets, defenses, free rent, rent concessions or abatements of rent under the Agreement or otherwise against

the payment of rent or other charges under this Agreement; and (ix) any other reasonable information that may be required in the estoppel.

27.1.2 Attornment by Master Tenant. Master Tenant shall, *provided* the holder of any Permitted Mortgage does not elect to terminate this Agreement in connection with a foreclosure, in the event any proceedings are brought for the foreclosure of, or in the event of the exercise of the power of sale under, any Permitted Mortgage prior in lien to this Agreement made by Landlord, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Agreement, *provided* such purchaser assumes in writing Landlord's obligations under this Agreement, subject to the terms of any non-disturbance agreement between Master Tenant and the holders of the Permitted Mortgage.

28. **Coordination with Loan Documents**. In the event of conflict, this Agreement shall be subordinate to the terms and conditions set forth in the Loan Documents relating to Master Tenant. Notwithstanding anything to the contrary in this Agreement, Master Tenant shall comply with both (i) the representations, warranties, covenants and other requirements of the Loan Documents relating to Master Tenant, as set forth in the Loan Documents, and (ii) Master Tenant's obligations under the Assignment and Subordination.

29. **Time is of the Essence**. Time is of the essence for each and every provision of this Agreement.

30. **Singular and Plural**. To the extent so required, terms defined in this Agreement in the singular shall be construed as meaning the plural where the context so requires and vice versa.

[Signature Page Follows]

IN WITNESS WHEREOF, Landlord and Master Tenant have hereunto set their respective hands the day and year first above written.

MASTER TENANT:

FREX DB LEASECO SERIES I LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

LANDLORD:

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: David Hammerman
Title: Authorized Signatory

EXHIBIT A
Rent

Lease Period	Base Rent	Gross Revenue Additional Rent Breakpoint	Additional Rent Annual	Gross Revenue Supplemental Rent Breakpoint
Year 1	$2,929,474	$6,368,000	$2,176,000	$8,544,000
Year 2	$2,946,309	$6,547,000	$2,160,000	$8,707,000
Year 3	$2,947,302	$6,669,000	$2,130,000	$8,799,000
Year 4	$2,954,556	$6,777,000	$2,274,000	$9,051,000
Year 5	$2,962,010	$6,885,000	$2,425,000	$9,310,000
Year 6	$2,975,736	$6,999,000	$2,575,000	$9,574,000
Year 7	$2,977,544	$7,108,000	$2,737,000	$9,845,000
Year 8	$2,985,635	$7,228,000	$2,900,000	$10,128,000
Year 9	$2,993,949	$7,348,000	$3,075,000	$10,423,000
Year 10	$3,008,558	$7,481,000	$3,070,000	$10,551,000

EXHIBIT B
Legal Description of the Land

PARCEL 1:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GRANVILLE CORPORATION, COUNTY OF MONONGALIA, STATE OF WEST VIRGINIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 8, OF THE UNIVERSITY TOWN CENTRE DEVELOPMENT, A MAP OR PLAT OF SAID DEVELOPMENT, BEING OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, IN PLAT CABINET 3, ENVELOPE 100-B, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1308/PG 21), TAX MAP 8, PARCEL 1.11; THENCE WITH SAID TRACT 8, NORTH 36°23'54" WEST 452.83 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 38°11'46" WEST 66.37 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET) IN THE SOUTHERN LINE AND AT THE END OF MOUNTAINEER DRIVE, STANDING AS A CORNER TO SAID TRACT 8; THENCE LEAVING SAID TRACT 8 AND WITH THE END OF SAID MOUNTAINEER DRIVE FOR A PARTIAL LINE AND CONTINUING WITH TRACT 9 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 468), TAX MAP 8, PARCEL 1.12, NORTH 38°11'46" WEST 176.05 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 67°32'28" WEST 52.51 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER MON-VIEW DEVELOPMENT (DB 1254/PG 452), TAX MAP 8, PARCEL 1 AND SAID TRACT 9; THENCE LEAVING SAID TRACT 9 AND WITH SAID MON-VIEW DEVELOPMENT, NORTH 46°32'47" WEST 571.68 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°09'33" WEST 52.59 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING IN THE LINE OF OTHER LANDS OF SAID MON-VIEW DEVELOPMENT, LLC (DB 1306/PG 176), TAX MAP 8, PART OF PARCEL 1 AND AS A CORNER TO NOW OR FORMER TOWN OF GRANVILLE (DB 1302/PG 517), TAX MAP 8, PARCEL 1.2; THENCE LEAVING SAID MON-VIEW DEVELOPMENT AND WITH SAID TOWN OF GRANVILLE, NORTH 53°31'50" EAST 38.07 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 17°30'21" EAST 169.96 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 08°56'15" WEST 112.73 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER BOJAN, LLC (DB 1177/PG 232), TAX MAP 15, PART OF PARCEL 18 AND SAID TOWN OF GRANVILLE; THENCE LEAVING SAID TOWN OF GRANVILLE AND WITH SAID BOJAN NORTH 79°25'10" EAST 429.46 FEET TO A 5/8-INCH CAPPED IRON ROD (FOUND), STANDING AS A CORNER TO NOW OR FORMER STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL II, (DB 434/PG 1), TAX MAP 15, PARCEL 20; THENCE LEAVING SAID BOJAN AND WITH SAID STATE ROAD COMMISSION NORTH 79°51'27" EAST 962.61 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 21°47'47" EAST 270.90 FEET TO A POINT, STANDING AS A CORNER TO LOT 26 OF HACKNEY ADDITION TO RANDALL, NOW OR FORMERLY OWNED BY SAID STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL I, (DB 434/PG 1), TAX MAP 15B, PARCEL 83; THENCE WITH LOTS OF SAID HACKNEY ADDITION (STATE ROAD COMMISSION) SOUTH 82°06'32" EAST 491.91 FEET TO A POINT, STANDING AS A CORNER TO LOTS 23 AND 22 OF HACKNEY ADDITION; THENCE WITH SAID LOTS 23 AND 22 NORTH 07°55'19" EAST 381.28 FEET TO A POINT IN THE SOUTHERN RIGHT OF WAY LINE OF US ROUTE 19 AND WEST VIRGINIA ROUTE 7, STANDING AS A CORNER TO SAID STATE ROAD COMMISSION; THENCE LEAVING SAID STATE ROAD COMMISSION AND WITH RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND LOT 22 OF SAID HACKNEY ADDITION SOUTH 74°20'40" EAST 162.38 FEET TO A POINT IN THE WESTERN LINE OF THE NORFOLK AND SOUTHERN RAILROAD (FORMERLY THE MONONGAHELA

RAILROAD COMPANY), 60 FEET RIGHT OF AND RIGHT ANGLE TO CENTERLINE OF SAID NORFOLK AND SOUTHERN RAILROAD; THENCE LEAVING RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND WITH SAID NORFOLK AND SOUTHERN RAILROAD, A LINE 60 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 599.78 FEET TO A POINT; THENCE SOUTH 86°33'10" EAST 25.00 FEET TO A POINT 35 FEET FROM CENTERLINE; THENCE WITH A LINE 35 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 565.00 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4442.46 FEET, A LINE 35 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 839.1 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 10°49'49" TO A POINT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 01°58'05" EAST 838.48 FEET; THENCE SOUTH 71°39'50" WEST 15.28 FEET TO A POINT 50 FEET FROM SAID CENTERLINE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4457.46 FEET, A LINE 50 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 437.99 FEET TO A POINT, STANDING AS A CORNER TO NOW OR FORMER CONSOLIDATION COAL COMPANY (DB 653/PG 403), TAX MAP 9, PARCEL 2, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 10°14'08" EAST 437.83 FEET; THENCE LEAVING SAID NORFOLK AND SOUTHERN RAILROAD AND WITH SAID CONSOLIDATION COAL COMPANY SOUTH 85°25'00" WEST 184.03 FEET TO A POINT; THENCE SOUTH 02°42'13" WEST 585.63 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°21'02" WEST 198.97 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 54°45'19" WEST 640.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°54'18" WEST 327.39 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 5 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY TARGET CORPORATION (DB 1254/PG 546), TAX MAP 8, PARCEL 1.5 AND SAID CONSOLIDATION COAL COMPANY; THENCE LEAVING SAID CONSOLIDATION COAL COMPANY AND WITH SAID TRACT 5 NORTH 17°25'35" WEST 68.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 47°01'17" WEST 138.35 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 62°12'34" WEST 113.66 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 6, OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 676), TAX MAP 8, PARCEL 1.7 AND SAID TRACT 5; THENCE LEAVING SAID TRACT 5 AND WITH SAID TRACT 6 NORTH 62°12'34" WEST 280.90 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°12'16" WEST 36.47 FEET TO A POINT; THENCE NORTH 12°33'18" WEST 89.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 24°32'26" WEST 83.15 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 33°30'03" WEST 60.70 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO SAID TRACT 8 OF SAID UNIVERSITY TOWN CENTRE AND SAID TRACT 6; THENCE LEAVING SAID TRACT 6 AND WITH SAID TRACT 8 NORTH 68°57'41" EAST 143.76 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 40°29'27" EAST 163.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 69°12'18" EAST 246.34 FEET TO THE PLACE OF BEGINNING, CONTAINING 93.61 ACRES, MORE OR LESS, AS SURVEYED IN JUNE THROUGH AUGUST, 2007, AND UPDATED OCTOBER, 2012, BY TRIAD ENGINEERING, INC., OF MORGANTOWN, WEST VIRGINIA, AND SHOWN ON SHEET C-2 OF THIS ALTA/ACSM LAND TITLE SURVEY FOR FAIRFIELD GRANVILLE EXCHANGE, LLC. THE MERIDIAN FOR ALL BEARINGS IN THIS DESCRIPTION IS BASED ON MON - VIEW DEVELOPMENT "PROJECT NORTH".

PARCEL 2: [EASEMENT]

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO TIE ONTO OR CONNECT TO THE STORM WATER DRAINAGE SYSTEM, EXISTING AS OF JUNE 5, 2003, AND LOCATED WITHIN THE LANDS ACQUIRED BY BOJAN, LLC BY DEED DATED OCTOBER 15, 1998 AND RECORDED IN THE

CLERK'S OFFICE OF MONONGALIA COUNTY, WEST VIRGINIA, IN DEED BOOK 1177, PAGE 232, TOGETHER WITH THE RIGHT TO DISCHARGE INTO SAID STORM WATER SYSTEM, AS MORE PARTICULARLY SET FORTH WITHIN THAT CERTAIN DEED DATED JUNE 5, 2003, BY AND BETWEEN BOJAN, LLC AND MON-VIEW, LLC, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1254, PAGE 445, AND AS REAFFIRMED WITHIN THAT CERTAIN INTERPARTIES AGREEMENT DATED JUNE 5, 2003 AND RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 1254, PAGE 496.

PARCEL 3: [EASEMENT]

TOGETHER WITH AN EASEMENT FOR THE PURPOSES OF (I) DESIGNING, CONSTRUCTING, OPERATING AND MAINTAINING A DRAINAGE CHANNEL FOR THE CONVEYANCE OF SURFACE WATER AND STORM WATER RUNOFF FROM PARCEL 1 ACROSS ADJACENT LAND TO A COLLECTION AND TREATMENT POND AND (II) THE DISCHARGE OF SURFACE WATER AND STORM WATER INTO SAID TREATMENT POND, AS MORE PARTICULARLY DESCRIBED WITHIN THAT CERTAIN DRAINAGE EASEMENT DATED MAY 1, 2008, BY AND BETWEEN MON-VIEW, LLC AND FAIRFIELD GRANVILLE EXCHANGE, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1366, PAGE 125. BEING THE SAME REAL ESTATE CONVEYED TO CPI-GREP DOMAIN OWNER, L.L.C. FROM DTC BORROWER, LLC BY DEED DATED JULY 2, 2018, OF RECORD IN DEED BOOK 1636, AT PAGE 48.

NOTE: THE ABOVE APPURTENANT PARCEL 2: [EASEMENT] AND PARCEL 3: [EASEMENT] ARE CONTIGUOUS TO PARCEL 1.

EXHIBIT C
Projections

Forecasted Statement of Cash Flows
FREX DB Series I, DST

Forecasted Cash on Cash Return

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Effective Gross Income	*8,543,853*	*8,942,337*	*9,196,742*	*9,449,652*	*9,709,518*	*9,976,529*	*10,250,884*	*10,532,783*	*10,822,435*	*11,120,052*
Operating Expenses	*(4,105,747)*	*(4,214,547)*	*(4,317,464)*	*(4,422,951)*	*(4,531,341)*	*(4,642,712)*	*(4,757,148)*	*(4,874,732)*	*(4,995,551)*	*(5,119,693)*
Net Operating Income	4,438,106	4,727,790	4,879,278	5,026,701	5,178,177	5,333,817	5,493,736	5,658,051	5,826,884	6,000,358
Master Lease Rent										
Base Rent - Debt Service	*2,213,714*	*2,219,779*	*2,213,714*	*2,213,714*	*2,213,714*	*2,219,779*	*2,213,714*	*2,213,714*	*2,213,714*	*2,219,779*
Base Rent - Real Estate Taxes & Insurance	*715,760*	*726,530*	*733,588*	*740,842*	*748,297*	*755,958*	*763,830*	*771,921*	*780,235*	*788,780*
Total Base Rent	*2,929,474*	*2,946,309*	*2,947,302*	*2,954,556*	*2,962,010*	*2,975,736*	*2,977,544*	*2,985,635*	*2,993,949*	*3,008,558*
Master Tenant Base Income 1	48,540	112,674	137,822	140,335	139,946	136,509	137,138	139,554	138,736	141,528
Additional Rent										
Additional Rent Breakpoint	*6,368,000*	*6,547,000*	*6,669,000*	*6,777,000*	*6,885,000*	*6,999,000*	*7,108,000*	*7,228,000*	*7,348,000*	*7,481,000*
Additional Rent Max	*2,176,000*	*2,160,000*	*2,130,000*	*2,274,000*	*2,425,000*	*2,575,000*	*2,737,000*	*2,900,000*	*3,075,000*	*3,070,000*
Additional Rent	2,175,853	2,160,000	2,130,000	2,274,000	2,425,000	2,575,000	2,737,000	2,900,000	3,075,000	3,070,000
Asset Management Fee	(85,439)	(89,423)	(91,967)	(94,497)	(97,095)	(99,765)	(102,509)	(105,328)	(108,224)	(111,201)
Trustee Fee & DST Expenses	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)
Additional Rent Cash Flow	**2,010,414**	**1,990,577**	**1,958,033**	**2,099,503**	**2,247,905**	**2,395,235**	**2,554,491**	**2,714,672**	**2,886,776**	**2,878,799**
Supplemental Rent										
Supplemental Rent Breakpoint	*8,544,000*	*8,707,000*	*8,799,000*	*9,051,000*	*9,310,000*	*9,574,000*	*9,845,000*	*10,128,000*	*10,423,000*	*10,551,000*
Master Tenant Supplemental Rent Income	-	23,534	39,774	39,865	39,952	40,253	40,588	40,478	39,943	56,905
DST Supplemental Rent	-	211,804	357,968	358,787	359,566	362,276	365,295	364,305	359,491	512,146
Trust Reserve Account	-	-	-	(251,335)	(258,909)	(266,691)	(274,687)	(282,903)	(291,344)	(300,018)
Supplemental Rent Cash Flow	**-**	**211,804**	**357,968**	**107,452**	**100,657**	**95,585**	**90,609**	**81,402**	**68,147**	**212,129**
Total DST Income	**5,105,327**	**5,318,112**	**5,435,270**	**5,587,343**	**5,746,576**	**5,913,013**	**6,079,840**	**6,249,939**	**6,428,440**	**6,590,705**
Debt Service	(2,213,714)	(2,219,779)	(2,213,714)	(2,213,714)	(2,213,714)	(2,219,779)	(2,213,714)	(2,213,714)	(2,213,714)	(2,219,779)
Real Estate Taxes & Insurance 2	(715,760)	(726,530)	(733,588)	(740,842)	(748,297)	(755,958)	(763,830)	(771,921)	(780,235)	(788,780)
Asset Management Fee	(85,439)	(89,423)	(91,967)	(94,497)	(97,095)	(99,765)	(102,509)	(105,328)	(108,224)	(111,201)
Trustee Fee & DST Expenses	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)
Trust Reserve	-	-	-	(251,335)	(258,909)	(266,691)	(274,687)	(282,903)	(291,344)	(300,018)
Total DST Cash Flow	**2,010,414**	**2,202,380**	**2,316,000**	**2,206,955**	**2,348,562**	**2,490,820**	**2,645,100**	**2,796,074**	**2,954,923**	**3,090,928**
Total Master Tenant Rental Income	**8,543,853**	**8,942,337**	**9,196,742**	**9,449,652**	**9,709,518**	**9,976,529**	**10,250,884**	**10,532,783**	**10,822,435**	**11,120,052**
Total Master Tenant Property Expenses 2	(4,105,747)	(4,214,547)	(4,317,464)	(4,422,951)	(4,531,341)	(4,642,712)	(4,757,148)	(4,874,732)	(4,995,551)	(5,119,693)
Base Rent 2	(2,929,474)	(2,946,309)	(2,947,302)	(2,954,556)	(2,962,010)	(2,975,736)	(2,977,544)	(2,985,635)	(2,993,949)	(3,008,558)
Add Back Real Estate Taxes & Insurance 2	715,760	726,530	733,588	740,842	748,297	755,958	763,830	771,921	780,235	788,780
Additional Rent	(2,175,853)	(2,160,000)	(2,130,000)	(2,274,000)	(2,425,000)	(2,575,000)	(2,737,000)	(2,900,000)	(3,075,000)	(3,070,000)
Supplemental Rent	-	(211,804)	(357,968)	(358,787)	(359,566)	(362,276)	(365,295)	(364,305)	(359,491)	(512,146)
Total Master Tenant Income	**48,540**	**136,208**	**177,597**	**180,200**	**179,897**	**176,762**	**177,727**	**180,033**	**178,679**	**198,433**
Total DST Cash Flow	**2,010,414**	**2,202,380**	**2,316,000**	**2,206,955**	**2,348,562**	**2,490,820**	**2,645,100**	**2,796,074**	**2,954,923**	**3,090,928**
DST CoC	*5.00%*	*5.48%*	*5.76%*	*5.49%*	*5.85%*	*6.20%*	*6.58%*	*6.96%*	*7.35%*	*7.69%*
Total Master Tenant Income	48,540	136,208	177,597	180,200	179,897	176,762	177,727	180,033	178,679	198,433
Master Tenant VIG	*0.12%*	*0.34%*	*0.44%*	*0.45%*	*0.45%*	*0.44%*	*0.44%*	*0.45%*	*0.44%*	*0.49%*
Master Tenant Income % of EGI	*0.57%*	*1.52%*	*1.93%*	*1.91%*	*1.85%*	*1.77%*	*1.73%*	*1.71%*	*1.65%*	*1.78%*
Forecasted Lender Reserve Account										
Beginning Balance	2,003,906	1,808,231	1,685,206	1,514,439	1,391,414	1,149,389	1,009,364	762,239	474,122	226,997
Reserve Contribution	-	-	-	-	-	-	-	-	-	-
Reserve Use	(195,675)	(123,025)	(170,767)	(123,025)	(242,025)	(140,025)	(247,125)	(288,117)	(247,125)	(158,425)
Ending Balance	**1,808,231**	**1,685,206**	**1,514,439**	**1,391,414**	**1,149,389**	**1,009,364**	**762,239**	**474,122**	**226,997**	**68,572**
Forecasted Trust Reserve Account										
Beginning Balance	300,000	300,000	300,000	300,000	551,335	810,244	1,076,935	1,351,622	1,634,524	1,925,868
Reserve Contribution	-	-	-	251,335	258,909	266,691	274,687	282,903	291,344	300,018
Seller Credit	-	-	-	-	-	-	-	-	-	-
Capital Expenditures	-	-	-	-	-	-	-	-	-	-
Ending Balance	**300,000**	**300,000**	**300,000**	**551,335**	**810,244**	**1,076,935**	**1,351,622**	**1,634,524**	**1,925,868**	**2,225,886**

1 The difference between the Base Rent and the Additional Rent Breakpoint for the Property for a given month, if any, after taking into account any expenses of the Property, will inure to the benefit of the Master Tenant. Such amounts will not be available for distributions to the Trust or the Investors.

2 Pursuant to the Master Lease, real estate taxes and insurance (**T&I**) are the Master Tenant's economic responsibility, but the DST pays for administrative convenience. Master Tenant T&I reimbursements was part of Base Rent, thus removed to reconcile DST cash flow. Further, Master Tenant Property Expenses includes T&I (and part of Base Rent), thus added back to reconcile total Master Tenant income (i.e., otherwise it is counted twice in Base Rent and Master Tenant Property Expenses).

Net Operating Income
FREX DB Series I, DST

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Market Rental Income	**$8,542,992**	**$8,774,419**	**$9,015,716**	**$9,263,648**	**$9,518,398**	**$9,780,154**	**$10,049,108**	**$10,325,459**	**$10,609,409**	**$10,901,168**
Vacancy Loss	($541,064)	($508,916)	($522,912)	($537,292)	($552,067)	($567,249)	($582,848)	($598,877)	($615,346)	($632,268)
Concessions	($219,460)	($127,005)	($130,498)	($134,087)	($137,774)	($141,563)	($145,456)	($149,456)	($153,566)	($157,789)
Employee/Model Beds	($75,634)	($78,970)	($81,141)	($83,373)	($85,666)	($88,021)	($90,442)	($92,929)	($95,485)	($98,111)
Credit Loss	($69,425)	($48,560)	($41,406)	($42,544)	($43,714)	($44,917)	($46,152)	($47,421)	($48,725)	($50,065)
Total Rental Income	**$7,637,410**	**$8,010,968**	**$8,239,759**	**$8,466,353**	**$8,699,177**	**$8,938,405**	**$9,184,211**	**$9,436,777**	**$9,696,288**	**$9,962,936**
Utility Income	$612,908	$629,763	$647,081	$664,876	$683,160	$701,947	$721,251	$741,085	$761,465	$782,405
Parking Income	$47,307	$48,608	$49,945	$51,318	$52,729	$54,179	$55,669	$57,200	$58,773	$60,389
Miscellaneous Income	$246,228	$252,999	$259,957	$267,106	$274,451	$281,998	$289,753	$297,722	$305,909	$314,321
Total Other Income	**$906,443**	**$931,370**	**$956,983**	**$983,300**	**$1,010,340**	**$1,038,125**	**$1,066,673**	**$1,096,007**	**$1,126,147**	**$1,157,116**
Effective Gross Income	**$8,543,853**	**$8,942,337**	**$9,196,742**	**$9,449,652**	**$9,709,518**	**$9,976,529**	**$10,250,884**	**$10,532,783**	**$10,822,435**	**$11,120,052**
Salaries	$930,441	$955,999	$982,195	$1,009,109	$1,036,764	$1,065,179	$1,094,375	$1,124,375	$1,155,199	$1,186,871
Repairs and Maintenance	$111,254	$114,310	$117,442	$120,660	$123,967	$127,364	$130,855	$134,442	$138,128	$141,915
Turnover	$182,627	$187,644	$192,785	$198,068	$203,496	$209,074	$214,804	$220,693	$226,743	$232,960
Contract Services	$249,570	$256,425	$263,451	$270,671	$278,088	$285,710	$293,541	$301,588	$309,856	$318,351
Internet	$68,806	$70,696	$72,634	$74,624	$76,669	$78,770	$80,929	$83,148	$85,427	$87,770
Marketing and Leasing	$222,133	$228,234	$234,488	$240,914	$247,516	$254,300	$261,270	$268,432	$275,791	$283,352
General and Administrative	$353,913	$363,634	$373,598	$383,836	$394,355	$405,163	$416,269	$427,680	$439,404	$451,451
Real Estate Taxes	$464,305	$468,160	$468,113	$468,066	$468,020	$467,973	$467,926	$467,879	$467,832	$467,786
Insurance	$251,455	$258,370	$265,475	$272,776	$280,277	$287,985	$295,904	$304,042	$312,403	$320,994
Business Tax	$107,145	$110,088	$113,104	$116,203	$119,388	$122,660	$126,022	$129,477	$133,026	$136,674
Total Controllable Expenses	**$2,941,648**	**$3,013,559**	**$3,083,286**	**$3,154,927**	**$3,228,539**	**$3,304,177**	**$3,381,897**	**$3,461,755**	**$3,543,810**	**$3,628,124**
Management Fee	$256,316	$268,270	$275,902	$283,490	$291,286	$299,296	$307,527	$315,983	$324,673	$333,602
Utilities	$907,783	$932,718	$958,276	$984,535	$1,011,516	$1,039,239	$1,067,725	$1,096,993	$1,127,067	$1,157,968
Total Uncontrollable Expenses	**$1,164,098**	**$1,200,988**	**$1,234,178**	**$1,268,024**	**$1,302,801**	**$1,338,535**	**$1,375,251**	**$1,412,977**	**$1,451,740**	**$1,491,570**
Total Expenses	**$4,105,747**	**$4,214,547**	**$4,317,464**	**$4,422,951**	**$4,531,341**	**$4,642,712**	**$4,757,148**	**$4,874,732**	**$4,995,551**	**$5,119,693**
Net Operating Income	**$4,438,106**	**$4,727,790**	**$4,879,278**	**$5,026,701**	**$5,178,177**	**$5,333,817**	**$5,493,736**	**$5,658,051**	**$5,826,884**	**$6,000,358**

EXHIBIT B

TRUST AGREEMENT

[ATTACHED]

AMENDED AND RESTATED TRUST AGREEMENT OF

FREX DB SERIES I DST, A DELAWARE STATUTORY TRUST

DATED AS OF MARCH 11, 2026

BY AND AMONG

FREX DB DEPOSITOR SERIES I LLC,
AS DEPOSITOR,

FREX MANAGER SERIES I LLC,
AS MANAGER AND SIGNATORY TRUSTEE,

THE CORPORATION TRUST COMPANY,
AS DELAWARE TRUSTEE,

AND

STEVEN P. ZIMMER,
AS INDEPENDENT TRUSTEE

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AMENDED AND RESTATED TRUST AGREEMENT
OF
FREX DB SERIES I DST
A DELAWARE STATUTORY TRUST

THIS AMENDED AND RESTATED TRUST AGREEMENT (as the same may be amended or supplemented from time to time, this "**Trust Agreement**"), dated as of March 11, 2026 (the "**Effective Date**"), is made by and among FREX DB Depositor Series I LLC (the "**Depositor**"), FREX Manager Series I LLC as manager and signatory trustee (the "**Manager**" or "**Signatory Trustee**"), The Corporation Trust Company ("**CTC**") as co-trustee (the "**Delaware Trustee**") and Steven P. Zimmer, as independent trustee (the "**Independent Trustee**"), and each of those parties admitted hereafter pursuant to the terms of this Trust Agreement as Class 1 Beneficial Owners of FREX DB Series I DST (the "**Trust**").

RECITALS

A. The Depositor and the Delaware Trustee formed "FREX DB Series I DST" as a Delaware statutory trust in accordance with Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. §3801, *et seq.* (the "**Statutory Trust Act**") pursuant to the filing of the Certificate of Trust with the Secretary of State of the State of Delaware on December 16, 2025. The Trust was initially governed by that certain trust agreement of the Trust by and between the Depositor, the Signatory Trustee and the Delaware Trustee dated as of December 16, 2025 (the "**Initial Trust Agreement**").

B. The Trust entered into that certain Purchase and Sale Agreement, dated as of January 21, 2026, as amended from time to time (the "**Purchase Contract**"), to acquire the real estate more particularly described on **Exhibit A**, together with all buildings, structures, fixtures and improvements located thereon (collectively, the "**Real Estate**").

C. On the Effective Date, the Depositor facilitated the acquisition of the Real Estate by the Trust by contributing to the Trust an amount of cash sufficient (together with the proceeds of the Loan (as hereinafter defined)) to enable the Trust to acquire the Real Estate and pay certain fees and costs in connection therewith. In exchange, the Depositor received one hundred percent (100%) of the Class 2 Beneficial Interests (as hereinafter defined) as reflected by the Class 2 Beneficial Ownership Certificate (as hereinafter defined) issued to the Depositor.

D. Concurrent with the acquisition of the Real Estate by the Trust, the Real Estate became subject to the Loan Documents (as hereinafter defined) and the Leases (as hereinafter defined).

E. The Trust appointed CTC, the Manager and the Signatory Trustee, and the Independent Trustee to undertake certain actions and perform certain duties pursuant to this Trust Agreement.

F. After the issuance of the Conversion Notice (as hereinafter defined), it is anticipated that certain Persons (as hereinafter defined) will acquire Class 1 Beneficial Interests in the Trust as evidenced by newly-issued Class 1 Beneficial Ownership Certificates (as hereinafter defined) in exchange for payment of money to the Trust and will, thereby, become Class 1 Beneficial Owners (as hereinafter defined) in accordance with the provisions of this Trust Agreement, which money will be distributed to the Depositor in whole or partial redemption of the Class 2 Beneficial Interests held by the Depositor.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate in its entirety the Initial Trust Agreement and agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. Capitalized terms used in this Trust Agreement shall have the meanings as set forth below.

"**Affiliate**" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "**control**," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise; and the terms "**controlling**" and "**controlled**" shall have meanings correlative to the foregoing.

"**Applicable Law**" means all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Trust or the Real Estate or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, including, without limitation, the Americans with Disabilities Act of 1990, and all permits, licenses and authorizations and regulations relating thereto.

"**Approved ID Provider**" shall mean each of CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company and Lord Securities Corporation; *provided*, that, additional national providers of independent directors may be deemed added to the foregoing hereunder to the extent approved in writing by the Lender and the Rating Agencies (as defined in the Loan Agreement).

"**Asset Management Agreement**" means that certain Asset Management Agreement dated on or about even herewith between the Trust and the Manager.

"**Beneficial Interest**" means a beneficial interest in the Trust, as such term is used in the Statutory Trust Act, all of which interests shall be either Class 1 Beneficial Interests or Class 2 Beneficial Interests.

"**Beneficial Owner**" means each Person who, at the time of determination, holds a Beneficial Interest as reflected on the most recent Ownership Records.

"**Beneficial Ownership Certificate**" means a certificate, stating whether it is a Class 1 Beneficial Ownership Certificate or a Class 2 Beneficial Ownership Certificate, in substantially the form of **Exhibit B-1** or **Exhibit B-2**, respectively, evidencing a Beneficial Interest in the Trust.

"**BHC Act**" means the United States Bank Holding Company Act of 1956, as amended, and as interpreted and implemented by the Board of Governors of the Federal Reserve System, whether pursuant to interpretation, regulation or otherwise.

"**BHC Beneficial Owner**" has the meaning set forth in Section 6.15.

"**BHC Recalculation Date**" has the meaning set forth in Section 6.15.

"**Business Day**" is any day other than on Saturday, Sunday or a legal holiday in the State of Delaware.

"**Cash Redemption Fee**" has the meaning given to such term in Section 10.1.

"**Cash Value**" has the meaning given to such term in Section 10.1.

"**Certificate of Trust**" means the certificate of trust of the Trust a copy of which is attached as **Exhibit C**.

"**Class 1 Beneficial Interest**" means each of the Beneficial Interests held by the Investors.

"**Class 1 Beneficial Owners**" means the Investors.

"**Class 1 Beneficial Ownership Certificates**" means the Beneficial Ownership Certificates issued to the Investors.

"**Class 2 Beneficial Interest**" means the Beneficial Interest held by the Depositor.

"**Class 2 Beneficial Owner**" means the Depositor and any permitted assignee of the Class 2 Beneficial Interest.

"**Class 2 Beneficial Ownership Certificate**" means the Beneficial Ownership Certificate issued to the Depositor and any permitted assignee of the Class 2 Beneficial Interest, and if, at any time, the Class 2 Beneficial Interest is held by more than one Person, such term in the plural shall mean the Beneficial Ownership Certificates issued to such Persons.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time.

"**Conversion**" has the meaning set forth in Section 3.2(c).

"**Conversion Notice**" means the notice, in substantially the form of **Exhibit H**, issued by the Depositor to the Delaware Trustee and the Manager stating that the provisions of Section 3.3(c) shall become effective upon receipt of the notice by the Delaware Trustee.

"**Creditors Rights Laws**" means any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"**CTC**" has the meaning given to such term in the introductory paragraph hereof.

"**Debt**" means the outstanding principal amount set forth in, and evidenced by, the Loan Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, the Loan Agreement or the other Loan Documents, including, without limitation, the payment of all sums advanced and costs and expenses incurred (including unpaid or unreimbursed servicing and special servicing fees) by Lender in connection with the enforcement and/or collection of the Debt or any part thereof.

"**Debt Service**" means, with respect to any particular period of time, scheduled principal and/or interest payments under the Loan.

"**Delaware Trustee**" has the meaning given to such term in the introductory paragraph hereof.

"**Depositor**" has the meaning given to such term in the introductory paragraph hereof.

"**Divide**" means to effectuate a Division.

"**Division**" means, as to any Person, such Person dividing and/or otherwise engaging in and/or becoming subject to, in each case, any division (whether pursuant to a plan of division or otherwise), including, without limitation and to the extent applicable, pursuant to c.

Effective Date" means the date of this Trust Agreement as specified in the introductory paragraph hereof.

"**Exchange**" has the meaning set forth in Section 10.1.

"**Exchange Entity**" has the meaning set forth in Section 10.1.

"**Exhibit**" means an exhibit attached to this Trust Agreement, unless otherwise specified.

"**FMV Option**" has the meaning given to such term in Section 10.1.

"**Governmental Authority**" means any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (foreign, federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"**Indebtedness**" means, for any Person, without duplication: (i) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person is or its assets are liable, (ii) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable if such amounts were advanced thereunder, (iii) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such Person, directly or indirectly, (v) all obligations under leases that constitute capital leases for which such Person is liable, (vi) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss, (vii) any property-assessed clean energy loans or similar indebtedness, including, without limitation, if such loans or indebtedness are made or otherwise provided by any Governmental Authority and/or secured or repaid (directly or indirectly) by any taxes or similar assessments, and (viii) any other similar amounts.

"**Independent Trustee**" has the meaning given to such term in the introductory paragraph hereof.

"**Initial Trust Agreement**" has the meaning given to such term in Recitals.

"**Insolvency Event**" means, with respect to the Trust, any of the following: (i) the adjudication by a court of competent jurisdiction as bankrupt or insolvent; (ii) an encumbrancer takes possession of all or any material part of the Trust's property; (iii) if a distress or execution or any similar process is levied or enforced upon or against all or any material part of the Trust's property; (iv) the voluntary taking of any formal proceeding for the rearrangement of its financial affairs by arrangement or compromise with its creditors; or (v) involuntary formal proceedings being taken against it for the rearrangement of its financial affairs by arrangement or compromise with its creditors which remains undismissed for a period of 180 days from filing or which is not dismissed or suspended within such 180-day period pursuant to Section 305 of the United States Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law).

"**Investors**" means the original purchasers of Class 1 Beneficial Interests in the Trust and any permitted assignees of such Class 1 Beneficial Interests.

"**Leases**" means (i) the Master Lease, and (ii) any subleases relating to the Real Estate.

"**Lender**" means Wells Fargo Bank, N.A., together with its successors, assigns, and transferees.

"**Loan**" means the loan made by Lender to the Trust pursuant to the Loan Agreement.

"**Loan Agreement**" means that certain Loan Agreement dated as of the Effective Date between the Trust and Lender.

"**Loan Documents**" means the Loan Agreement, the Note, the Security Instrument, and any other documents or agreements contemplated by the foregoing or otherwise required by Lender.

"**LLC**" has the meaning given to such term in Section 9.2.

"**Manager**" means the Person serving, at the time of determination, as the manager under this Trust Agreement. As of the Effective Date, the Manager is FREX Manager Series I LLC.

"**Manager Covered Expenses**" has the meaning given to such term in Section 5.4.

"**Manager Indemnified Persons**" has the meaning given to such term in Section 5.4.

"**Master Lease**" means that master lease agreement between the Trust, as landlord, and FREX DB LeaseCo Series I LLC, as master tenant, relating to the Real Estate, together with all amendments, supplements and modifications thereto.

"**Master Tenant**" means FREX DB LeaseCo Series I LLC, as master tenant under the Master Lease, including all permitted assigns, transferees and successors.

"**Memorandum**" means the Confidential Private Placement Memorandum (as supplemented and amended from time to time), through which the Class 1 Beneficial Interests are being syndicated to accredited investors.

"**Non-Voting Interests**" has the meaning set forth in Section 6.15.

"**Note**" means that certain Promissory Note dated as of the Effective Date in the principal amount of $35,805,000.00, made by the Trust in favor of Lender, as the same may be amended, restated, replaced, extended, renewed, supplemented, severed, split, or otherwise modified from time to time.

"**Notice of FMV Option**" has the meaning given to such term in Section 10.1.

"**Option Holder**" means the Manager, its Affiliates, successors or assigns.

"**Ownership Records**" means the records maintained by the Manager or a third-party recordkeeping services provider, substantially in the form of **Exhibit D**, indicating from time to time the name, mailing address, and Percentage Share of each Beneficial Owner, which records shall initially indicate the Depositor as the sole Beneficial Owner and shall be revised by the Manager contemporaneously to reflect the issuance of Beneficial Interests and Beneficial Ownership Certificates in accordance with this Trust Agreement, changes in mailing addresses, or other changes.

"**Percentage Share**" means, for each Beneficial Owner, the percentage of the aggregate Beneficial Interest in the Trust held by such Beneficial Owner as reflected on the most recent Ownership Records and evidenced by the Beneficial Ownership Certificate held by such Beneficial Owner. For the avoidance of doubt, the sum of (i) the Percentage Share of the Class 1 Beneficial Interests and (ii) the Percentage Share of the Class 2 Beneficial Interests at all times shall be one hundred percent (100.0%).

"**Permitted Indebtedness**" means (i) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (A) unsecured, (B) not evidenced by a note, (C) on commercially reasonable terms and conditions, and (D) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and (ii) Permitted Equipment Leases (as defined in the Loan Documents); *provided*, *however*, the aggregate amount of the indebtedness described in (i) and (ii) shall not exceed at any time two percent (2%) of the outstanding principal amount of the Debt.

"**Permitted Transfer**" means the transfer of a Class 1 Beneficial Interest (i) by devise, descent or by operation of law upon the death of a Class 1 Beneficial Owner or the member, partner, or stockholder

of a Class 1 Beneficial Owner, or (ii) for estate planning purposes primarily for the benefit of such Beneficial Owner.

"**Person**" means a natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank trust company, land trust, business trust, statutory trust or other organization, whether or not a legal entity, and a government or agency or political subdivision thereof.

"**Personal Property**" has the meaning set forth in the granting clause of the Security Instrument.

"**Purchase Agreement**" means the agreement to be entered into by the Trust (through the Manager) and each Investor with respect to the acquisition of Class 1 Beneficial Interests by the Investors.

"**Purchase Contract**" has the meaning given to such term in Recitals.

"**Real Estate**" has the meaning given to such term in Recitals.

"**Receipt Date**" has the meaning given to such term in Section 10.3.

"**Regulations**" means the U.S. Treasury Regulations promulgated under the Code.

"**Reserves**" has the meaning given to such term in Section 7.2 and includes, without limitation, the Supplemental Trust Reserve and any other reserve or escrow account permitted by the Trust as elsewhere provided herein.

"**Secretary of State**" has the meaning given to such term in Section 2.1(b).

"**Section**" means a section of this Trust Agreement, unless otherwise specified.

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

"**Security Instrument**" means that certain first priority Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the Effective Date, executed and delivered by the Trust as security for the Loan and encumbering the Real Estate, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"**Signatory Trustee**" has the meaning given to such term in the introductory paragraph hereof.

"**Sponsor**" means Fortress Real Estate Exchange LLC, a Delaware limited liability company.

"**Statutory Trust Act**" has the meaning given to such term in Recitals.

"**Supplemental Trust Reserve**" means a reserve account (which the Manager may establish) on behalf of and owned by the Trust for costs and expenses associated with the Real Estate.

"**Tenant**" means the Person identified as the tenant or lessee in each of the Leases.

"**Transaction Documents**" means the Trust Agreement, the Purchase Agreements and the Leases, together with any other documents to be executed in furtherance of the investment activities of the Trust.

"**Transfer Distribution**" has the meaning given to such term in Section 9.2.

"**Trust**" means FREX DB Series I DST, a Delaware statutory trust continued by and in accordance with, and governed by, this Trust Agreement.

"**Trust Agreement**" has the meaning given to such term in the introductory paragraph hereof.

"**Trust Estate**" means all of the Trust's right, title, and interest in and to the Leases, the Real Estate, and any and all other property and assets (whether tangible or intangible) in which the Trust, at any time has any right, title or interest contributed to the Trust by the Depositor or otherwise owned by the Trust.

"**Trustee**" means the Person serving, at the time of determination, as the trustee under this Trust Agreement, in such Person's capacity as Trustee and not in such Person's individual capacity. As of the Effective Date, the Trustees are The Corporation Trust Company (as the Delaware Trustee), Steven P. Zimmer (as the Independent Trustee) and the Signatory Trustee.

"**Trustee Covered Expenses**" has the meaning given to such term in Section 4.4.

"**Trustee Indemnified Persons**" has the meaning given to such term in Section 4.4.

"**Unit Notice**" has the meaning given to such term in Section 10.2.

"**Units**" has the meaning given to such term in Section 10.1.

ARTICLE 2
GENERAL MATTERS

Section 2.1 Organizational Matters.

(a) CTC is hereby appointed as the Delaware Trustee, and CTC hereby accepts such appointment, pursuant and subject to this Trust Agreement.

(b) The Depositor has authorized and directed the Delaware Trustee to execute and file the Certificate of Trust in the office of the Secretary of State of the State of Delaware (the "**Secretary of State**"), which filing has been duly made, and hereby authorizes the Delaware Trustee to execute and file in the office of the Secretary of State such other certificates as may from time to time be required under the Statutory Trust Act or any other Delaware law.

(c) The name of the Trust is "FREX DB Series I DST". The Manager shall have full power and authority, and is hereby authorized, to conduct the activities of the Trust, execute and deliver all documents (including, without limitation, the Transaction Documents to which the Trust is or becomes a party from time to time) for or on behalf of the Trust, and cause the Trust to sue or be sued under its name. Any reference to the Trust shall be a reference to the statutory trust formed pursuant to the Certificate of Trust and this Trust Agreement and not to the Signatory Trustee, the Delaware Trustee or the Manager individually or to the officers, agents or employees of the Trust, the Signatory Trustee, the Delaware Trustee, or the Manager.

(d) The principal office of the Trust, and such additional offices as the Manager may determine to establish, shall be located at such places inside or outside of the State of Delaware as the Manager shall designate from time to time. As of the Effective Date, the principal office of the Trust is located at c/o Fortress Investment Group LLC, 1345 Avenue of the Americas, 46th Floor, New York, New York 10105.

(e) Except to the extent contemplated by Section 4.7 hereof, legal title to the Trust Estate shall be vested in the Trust as a separate legal entity.

Section 2.2 Declaration of Trust and Statement of Intent.

(a) The Trust hereby declares that it shall hold the Trust Estate in trust for the benefit of the Beneficial Owners upon the terms set forth in this Trust Agreement, subject to the obligations of the Trust under the Loan Documents.

(b) It is the intention of the parties that the Trust constitute a "statutory trust" pursuant to the Statutory Trust Act, the Delaware Trustee is a "trustee," the Manager is an "agent" of the Trust, the Signatory Trustee is a co-trustee (subject to the limitations provided for in Section 4.7 hereof), the Beneficial Owners are "beneficial owners," and this Trust Agreement is the "governing instrument" of the Trust, each within the respective meaning provided in the Statutory Trust Act.

Section 2.3 Purposes. The purposes of the Trust are, and the Trust has all requisite power, authority and authorization to engage in, the following activities: (i) acquire the Real Estate and enter into, execute, deliver and perform the Leases, the Loan Documents, and the other Transaction Documents to which it is or becomes a party from time to time; (ii) hold for investment and eventually dispose of the Real Estate; and (iii) take only such other actions as the Manager deems necessary to carry out the foregoing. Neither the Trustees, the Manager, the Investors or the Beneficial Owners, nor any of their agents or Affiliates, shall provide services related to the Trust or the Real Estate: (a) that are not "customary services" within the meaning of Revenue Ruling 75-374, 1975-2 C.B. 261; (b) the payment for which would not qualify as "rents from real property" within the meaning of Code Section 512(b)(3)(A)(i) and the Regulations thereunder; or (c) the payment for which would not qualify as "rents from real property" within the meaning of Code Sections 856(c)(2)(C) and 856(c)(3)(A) and the Regulations thereunder. The Trust shall conduct no business other than as specifically set forth in this Section 2.3.

ARTICLE 3
PROVISIONS RELATING TO THE TAX TREATMENT

Section 3.1 Article 3 Supersedes All Other Provisions of this Trust Agreement. This Article 3 contains certain provisions intended to achieve the desired treatment of the Trust and Beneficial Interests for federal income tax purposes. To the extent of any inconsistency between this Article 3 and any other provision of this Trust Agreement, this Article 3 shall supersede and be controlling; *provided*, for the avoidance of doubt, that nothing in this Article 3 or elsewhere in this Trust Agreement shall limit or impair the Trust's power, authority and authorization (or limit or impair the Manager's power, authority and authorization to cause the Trust) to enter into, execute, deliver, and perform its obligations under, the Transaction Documents to which it is or becomes a party from time to time, and to do so without the need for the consent or approval of any Beneficial Owner or other Person, and *further provided* that the requirements of this Article 3 shall be enforceable to the maximum extent permissible under the Statutory Trust Act.

Section 3.2 Provisions Relating to the Loan.

(a) Until the date on which all obligations of the Trust under the Loan Documents are indefeasibly and fully satisfied, the Trust is and shall continue to be deemed a "**Single Purpose Entity**" throughout the term of the Loan. A "**Single Purpose Entity**" means with respect to the Trust or, following a Transfer Distribution, the LLC, which at all times since its formation and thereafter has not and will not:

(1) engage in any business or activity other than the ownership, operation and maintenance of the Real Estate, and activities incidental thereto;

(2) acquire or own any assets other than (A) the Real Estate, and (B) such incidental Personal Property as may be necessary for the ownership, leasing, maintenance and operation of the Real Estate;

(3) merge into or consolidate with any Person or effectuate a Division, or dissolve, terminate, liquidate in whole or in part, or transfer, Divide or otherwise dispose of all or substantially all of its assets, or change its legal structure;

(4) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the Applicable Law of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of this Trust Agreement;

(5) own any subsidiary, or make any investment in, any Person;

(6) commingle its assets with the assets of any other Person;

(7) incur any Indebtedness, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt and (B) Permitted Indebtedness. No Indebtedness other than the Debt may be secured (subordinate or pari passu) by the Real Estate;

(8) fail to maintain all of its books, records, financial statements and bank accounts separate from those of its Affiliates and any constituent party. The Trust's assets have not and will not be listed as assets on the financial statement of any other Person; provided, however, that the Trust's assets may be included in a consolidated financial statement of its Affiliates, provided that (A) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Trust and such Affiliates and to indicate that the Trust's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person and (B) such assets shall be listed on the Trust's own separate balance sheet. The Trust has maintained and will maintain its books, records, resolutions and agreements as official records;

(9) enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(10) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(11) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts of any other Person, or otherwise pledge its assets for the benefit of any other Person or hold out its credit as being available to satisfy the obligations of any other Person;

(12) make any loans or advances to any Person;

(13) fail to file its own tax returns unless prohibited by Applicable Law from doing so (except that the Trust may file or may include its filing as part of a consolidated federal tax return, to the extent required and/or permitted by Applicable Law, provided that there shall be an appropriate notation indicating the separate existence of the Trust and its assets and liabilities);

(14) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person and not as a division or part of any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(15) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations (to the extent there exists sufficient cash flow from the Real Estate available to

the Trust to do so after the payment of all operating expenses and Debt Service and shall not require any equity owner to make additional capital contributions to the Trust);

(16) without the unanimous written consent of all of its Beneficial Owners, and the consent of the Independent Trustee, (A) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (B) seek or consent to the appointment of a receiver, liquidator or any similar official, (C) take any action that might cause the Trust to become insolvent, or (D) make an assignment for the benefit of creditors;

(17) fail to allocate shared expenses (including, without limitation, shared office space) or fail to use separate stationery, invoices and checks;

(18) violate or cause to be violated the assumptions made with respect to the Trust and its principals in the Non-Consolidation Opinion or in any New Non-Consolidation Opinion (each as defined in the Loan Documents);

(19) fail to have at least one (1) signatory trustee that complies with the requirements of Article 5 of the Loan Agreement;

(20) fail to maintain at all times during the term of the Loan at least one (1) Independent Trustee which has the authority to terminate this Trust Agreement by converting the Trust into a Delaware limited liability company in form and substance satisfactory to Lender in accordance with the provisions of Section 4.27 of the Loan Agreement and pursuant to the provisions of Section 9.2 of this Trust Agreement;

(21) fail to remain solvent, to pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds or fail to maintain a sufficient number of employees in light of its contemplated business operations (in each case, to the extent there exists sufficient cash flow from the Real Estate available to the Trust to do so); or

(22) acquire obligations or securities of its partners, members, shareholders or other Affiliates, as applicable, or identify its partners, members or shareholders or other Affiliates, as applicable, as a division or part of it.

(b) Failure of the Trust to comply with any of the foregoing covenants or any other covenants contained in this Trust Agreement shall not affect the status of the Trust as a separate legal entity or the limited liability of any Beneficial Owner.

(c) Notwithstanding anything to the contrary contained herein, upon the occurrence of (i) an Event of Default (as defined in the Loan Documents, (ii) Lender determining reasonably and in good faith that there is an imminent risk of an Event of Default pursuant to the Loan Documents, or (iii) an executed commitment, signed term sheet or other evidence reasonably satisfactory to Lender, from a lender reasonably satisfactory to Lender to refinance the Loan (which commitment, term sheet or other evidence shall have a loan amount at closing at least equal to the outstanding principal balance of the Loan, and which may be in connection with the sale of the Property) not being delivered to Lender at least ninety (90) days prior to the Maturity Date (as defined in the Loan Agreement, the Trust shall terminate this Trust Agreement by converting the Trust into a Delaware limited liability company (A) in accordance with the terms of the Trust Agreement, (B) under the Control of Sponsor (as defined in the Loan Agreement), (C) having organizational documents in form and substance satisfactory to Lender, and (D) meeting the requirements set forth in Sections 5.1 and 5.2 of the Loan Agreement (collectively, a "**Conversion**"). In connection with a Conversion, if required by Lender, the Trust shall cause the Master Tenant to assign all

of the Leases and other contracts related to the Property to the Trust and terminate the Master Lease, each pursuant to documentation reasonable satisfactory to Lender.

Section 3.3 Provisions Relating to Tax Treatment.

(a) Prior to the issuance of the Conversion Notice, the sole Beneficial Owner of the Trust shall be the Depositor. The rights of the Depositor (as the Class 2 Beneficial Owner) with respect to the assets and property held by the Trust, as provided in Section 6.11 hereof, are such that the Trust will be characterized at such time as a "business entity" within the meaning of Regulations Section 301.7701-3. Because the Depositor will be the sole Beneficial Owner, the Trust will be characterized as a disregarded entity, and all assets and property of the Trust shall be treated for federal income tax purposes as assets and property of the Depositor.

(b) Upon the issuance of the Conversion Notice, the special rights of the Depositor (as the Class 2 Beneficial Owner) set forth in Section 6.11 will terminate, as set forth in Section 6.12, and the Depositor will have the same rights as any Class 1 Beneficial Owner.

(c) It is the intention of the parties hereto that upon and at all times after the issuance of the Conversion Notice that the Trust shall constitute an investment trust pursuant to Regulations Section 301.7701-4(c) and each Beneficial Owner shall be treated as a "grantor" within the meaning of Code Section 671. As such, the parties further intend that each Beneficial Owner shall be treated for federal income tax purposes as if it holds a direct ownership in the Trust and the Real Estate. Each Beneficial Owner agrees to report its interest in the Trust in a manner consistent with the foregoing and otherwise not to take any action that would be inconsistent with the foregoing. Upon and after issuance of the Conversion Notice, none of the Trustees, the Manager, the Beneficial Owners and/or the Trust shall have power and authority, or shall be authorized, and each of them is hereby expressly prohibited from taking, and none of them shall be allowed to take, any of the following actions with respect to the Trust:

(i) sell, transfer or exchange the Trust Estate except as required under Article 9;

(ii) reinvest any monies of the Trust, except to make modifications or repairs to the Real Estate permitted hereunder or in accordance with Section 7.2;

(iii) enter into financing (except in the case of the Master Tenant's bankruptcy or insolvency);

(iv) renegotiate the Master Lease or enter into new Leases (other than the original Master Lease entered into in connection with the acquisition of the Real Estate), except in the case of the Master Tenant's bankruptcy or insolvency;

(v) make modifications to the Real Estate (other than minor non-structural modifications) unless required by law;

(vi) accept any capital from a Beneficial Owner (other than capital from an Investor that will be (i) used to pay expenses of the offer and sale of the Class 1 Beneficial Interests, (ii) used to fund Reserves, or (iii) distributed to the Depositor and reduce the Depositor's Percentage Share); or

(vii) take any other action which would in the reasoned opinion of tax counsel to the Trust should cause the Trust to be treated as a business entity for federal income tax purposes if the effect would be that such action or actions would constitute a power under the Trust Agreement to "vary the investment of the certificate holders" under Regulations Section 301.7701-4(c)(1) and Revenue Ruling 2004-86.

The Trust shall hold the Trust Estate for investment purposes and only lease the Real Estate to the Master Tenant. The activities of the Trust with respect to the Trust Estate shall be limited to the activities which are customary services in connection with the holding of the Trust Estate and none of the Trustees, the Beneficial Owners, the Manager, or their agents shall provide non-customary services, as such term is defined in Code Sections 512 and 856 and Revenue Ruling 75-374, 1975-2 C.B. 261. The Trust shall conduct no business other than as specifically set forth in this Section 3.3. Without limiting the generality of the foregoing, upon and after issuance of the Conversion Notice, (i) none of the Trustees, the Manager, the Beneficial Owners and the Trust shall have any power or authority to undertake any actions that are not permitted to be undertaken by an entity that is treated as a "trust" within the meaning of Regulations Section 301.7701-4 and not treated as a "business entity" within the meaning of Regulations Section 301.7701-3, and (ii) this Trust Agreement shall be interpreted and enforced so as to be in compliance with the requirements of Revenue Ruling 2004-86, 2004-33 I.R.B. 191.

For federal income tax purposes, after the issuance of the Conversion Notice, the Trust is intended to be and shall constitute an investment trust pursuant to Regulations Section 301.7701-4(c) and a "grantor trust" under Subpart E of Part 1, Subchapter J of the Code (Code Sections 671 - 679) and shall not constitute a "business entity."

ARTICLE 4
CONCERNING THE DELAWARE TRUSTEE, INDEPENDENT TRUSTEE AND SIGNATORY TRUSTEE

Section 4.1 Power and Authority. The Delaware Trustee serves the Trust solely to fulfill the Trust's obligation pursuant to Section 3807(a) of the Statutory Trust Act to have at least one trustee who has its principal place of business in the State of Delaware. It is understood and agreed by the parties hereto that the Delaware Trustee shall have none of the duties or liabilities of the Manager. The duties of the Delaware Trustee are limited to (i) accepting legal process served on the Trust in the State of Delaware and (ii) the execution of any certificates required to be filed with the Delaware Secretary of State which the Delaware Trustee is required to execute pursuant to the Statutory Trust Act. The Manager agrees not to instruct the Delaware Trustee to take any action that is contrary to the terms of this Trust Agreement or of any document contemplated hereby to which the Trust or the Delaware Trustee is or becomes party or that is otherwise contrary to law. Other than as expressly provided for in this Trust Agreement, the Delaware Trustee shall have no duty or obligation to take any action for or on behalf of the Trust, including without limitation, to manage or deal with the Trust Estate, or to otherwise take or refrain from taking any action under, or in connection with, any document contemplated hereby to which the Delaware Trustee is a party, except as expressly provided by this Trust Agreement, and no implied duties shall be read herein against the Delaware Trustee, including without limitation, that no action requested of the Delaware Trustee shall require the performance of any investigation, analysis, or other due diligence activities by the Delaware Trustee in respect to such action or the performance of its duties on behalf of the Trust generally. Notwithstanding any provision of this Trust Agreement or any other document to the contrary, under no circumstances shall the Delaware Trustee, in its individual capacity or in its capacity as Delaware Trustee, (i) be liable to the Trust or its beneficiaries for any of its acts or omissions except for acts or omissions constituting bad faith or willful misconduct; and (ii) be liable to any person other than the Trust or a beneficiary of the Trust for any act, omission or obligation of the Trust or any trustee thereof and all persons having any claim against the Delaware Trustee by reason of the transactions contemplated by this Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Pursuant to Section 3806(c) of the Statutory Trust Act, to the extent that at law or in equity the Delaware Trustee, as trustee, has duties (including fiduciary duties) and liabilities relating to the Trust or to beneficiaries thereof, the Delaware Trustee's duties and liabilities are hereby eliminated and restricted to the fullest extent allowable under applicable law and the Delaware Trustee shall not be liable to the Trust or to any Beneficial Owner of the Trust for any action taken in good faith reliance on the terms of this Trust Agreement.

Section 4.2 Delaware Trustee's Capacity. In accepting the trust hereby created, the Delaware Trustee acts solely as the Delaware Trustee hereunder and not in its individual capacity, and all Persons having any claim against the Delaware Trustee by reason of the transactions contemplated by this Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Notwithstanding any provision of this Trust Agreement or any other document to the contrary, under no circumstances shall the Delaware Trustee, in its individual capacity or in its capacity as a Delaware Trustee, (i) have any duty to choose or supervise, nor shall it have any liability for the actions or inactions of, the Manager or any officer, manager, employee, or other Person (other than its own employees), or (ii) be liable or responsible for, or obligated to perform, any contract, representation, warranty, obligation or liability of the Trust, the Manager, or any officer, manager, employee, or other Person (other than its own employees); *provided*, *however*, that this limitation shall not protect the Delaware Trustee against any liability to the Beneficial Owners to which it would otherwise be subject by reason of its willful misconduct, bad faith, fraud or gross negligence in the performance of its duties under this Trust Agreement.

Section 4.3 Independent Trustee.

(a) Steven P. Zimmer is hereby appointed as the initial Independent Trustee, and Steven P. Zimmer hereby accepts such appointment, pursuant and subject to this Trust Agreement. The Independent Trustee must not (i) have any fiduciary duties to the beneficial owners or any other Person bound by the Trust Agreement, and (ii) be liable to the Trust, any Beneficial Owner or any other Person bound by the Trust Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Trustee acted in bad faith or engaged in willful misconduct.

(b) At all times, the Trust shall have at least one (1) duly appointed Independent Trustee. The Independent Trustee (i) shall be reasonably satisfactory to the Lender, and (ii) shall not currently be nor at any time during the preceding five (5) years have served as independent director or independent trustee, as applicable, to either (A) a Beneficial Owner of, or an officer, director (other than in its capacity as independent trustee), partner, member or employee of, the Trust, the Master Tenant or any of the Trust's or the Master Tenant's shareholders, partners, members, subsidiaries or Affiliates, (B) a customer of, or supplier to, or other Person who derives any of its purchases or revenues from its activities with, the Trust, the Master Tenant or any of their respective shareholders, partners, members, subsidiaries or Affiliates, (C) a Person who Controls (as defined in the Loan Agreement) or is under common Control with any such shareholder, officer, director, partner, member, employee supplier, customer or other Person, or (D) a member of the immediate family of any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, and (iii) shall be employed by, in good standing with and engaged by the Trust in connection with, in each case, an Approved ID Provider. The Independent Trustee, as of the Effective Date, has at least three (3) years prior experience as an independent director to a company or a corporation in the business of owning and operating commercial properties similar in type and quality to the Real Estate.

(c) In addition to the other provisions of this Section 4.3, the Signatory Trustee shall not take any action which, under the terms of this Trust Agreement requires the unanimous vote of (i) (A) all Trustees, or (B) the Beneficial Owners, unless in the case of the foregoing clause (A), at the time of such action there shall be at least one (1) Independent Trustee engaged as provided by the terms hereof and in the case of clause (B), the consent of the requisite number of Beneficial Owners has been obtained; (ii) no Independent Trustee may be removed or replaced without Cause (as defined in the Loan Agreement) and unless the Trust provides the Lender with not less than three (3) Business Days' prior written notice of (A) any proposed removal of the Independent Trustee together with a statement as to the reasons for such removal, and (B) the identity of the proposed replacement Independent Trustee together with a certification that such replacement satisfies the requirements set forth herein for an Independent Trustee; (iii) to the fullest extent permitted by applicable law, including §3828 of the Statutory Trust Act, 12 Del. C. §3828,

and notwithstanding any duty otherwise existing at law or in equity, the Independent Trustee shall consider only the interests of the Beneficial Owners and the Trust and the Signatory Trustee or the Master Tenant, as applicable (including their respective creditors) in acting or otherwise voting on the matters provided for herein (which such fiduciary duties to the Signatory Trustee and the Trust (including the Trust's creditors), in each case, shall be deemed to apply solely to the extent of their respective economic interests in the Trust exclusive of (x) all other interests (including, without limitation, all other interests of the Signatory Trustee), (y) the interests of other Affiliates of the Signatory Trustee, the Trust or Master Tenant, as applicable and (z) the interests of any group of Affiliates of which the Signatory Trustee or the Trust is a part)); (iv) other than as provided in subsection (iii) above, the Independent Trustee shall not have any fiduciary duties to the Signatory Trustee or any directors, trustees or managers, as applicable, of the Trust, Master Tenant or any other Person; (v) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; (vi) to the fullest extent permitted by applicable law, including §3828 of the Statutory Trust Act, 12 Del. C. §3828, an Independent Trustee shall not be liable to the Trust, the Master Tenant, the Signatory Trustee or any other Person for breach of contract or breach of duties (including fiduciary duties), unless the Independent Trustee acted in bad faith or engaged in willful misconduct; and (vii) except as provided in the foregoing subsections (iii) through (vi), the Independent Trustee shall, in exercising their rights and performing their duties under this Trust Agreement, have a fiduciary duty of loyalty and care similar to that of a director of a business corporation organized under the General Corporation Law of the State of Delaware.

Section 4.4 Duties. None of the Delaware Trustee or any successor trustee shall have any duty or obligation under or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, except as expressly provided by the terms of this Trust Agreement, and no implied fiduciary or other duties or obligations shall be read into this Trust Agreement against the Delaware Trustee or any successor trustee. The right of the Delaware Trustee to perform any discretionary act enumerated herein shall not be construed as a duty. To the fullest extent permitted by applicable law, including without limitation Section 3806 of the Statutory Trust Act, the Delaware Trustee and any successor trustee (i) shall have no duties (fiduciary or otherwise) to any Person other than the Trust and the Beneficial Owners, and all such duties (including only those fiduciary duties expressly set forth herein as being fiduciary in nature) shall be restricted to those duties (including fiduciary duties) expressly set forth in this Trust Agreement, and (ii) shall have no liability (including no liability for breach of contract or breach of duty) to any Person other than the Trust and the Beneficial Owners, and all such liability shall be restricted to those liabilities expressly set forth in this Trust Agreement; *provided*, *however*, no provision of this Trust Agreement is intended to or shall eliminate the implied contractual covenant of good faith and fair dealing or limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing. Pursuant to Section 3803(b) of the Statutory Trust Act, the Delaware Trustee shall not be liable to any person other than the Trust or a beneficiary of the Trust for any act, omission or obligation of the Trust or any trustee thereof and all persons having any claim against the Delaware Trustee by reason of the transactions contemplated by this Trust Agreement or any other agreement or instrument related to the Trust shall look only to the Trust's property for payment or satisfaction thereof.

Section 4.5 Indemnification. The Beneficial Owners and the Trust, jointly and severally, hereby agree to: (i) reimburse the Person serving as Delaware Trustee and Independent Trustee and/or any successor trustee for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Trust Agreement; (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless the Person serving as Delaware Trustee and Independent Trustee and/or any successor trustee, and the officers, directors, employees and agents of the Person serving as Delaware Trustee and Independent Trustee and/or any successor trustee (collectively, including the Trustee and/or any successor trustee in its individual capacity, the "**Trustee Indemnified Persons**") from and

against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, "**Trustee Covered Expenses**"), to the extent that such Trustee Covered Expenses arise out of or are imposed upon or asserted at any time against any such Trustee Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any such Trustee Indemnified Persons, with respect to or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby; *provided*, *however*, that the Beneficial Owners or the Trust shall not be required to indemnify a Trustee Indemnified Person for Trustee Covered Expenses to the extent such Trustee Covered Expenses result from the willful misconduct, bad faith, fraud or gross negligence of such Trustee Indemnified Person; and (iii) to the fullest extent permitted by law, advance to each such Trustee Indemnified Person Trustee Covered Expenses incurred by such Trustee Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding, only upon receipt by any Beneficial Owner of an undertaking, by or on behalf of such Trustee Indemnified Person, to repay such amount if a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Trustee Indemnified Person is not entitled to be indemnified therefor under this Section 4.5. The obligations of the Beneficial Owners and the Trust under this Section 4.5 shall survive the resignation or removal of the Trustees, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement; *provided*, *however*, a Beneficial Owner shall be released from and relieved of any and all obligations under this Section 4.5 that relate to any acts or events occurring in their entirety after the date on which such Beneficial Owner no longer owns any Beneficial Interest in the Trust. So long as any obligation evidenced or secured by the Loan Documents is outstanding, no indemnity payment from funds of the Trust (as distinct from funds from other sources, such as insurance) of any indemnity pursuant to this Section 4.5 shall be payable from amounts allocable to the Lender pursuant to the Loan Documents. Any indemnification set forth in this Trust Agreement shall be fully subordinate to the Loan and shall not constitute a claim against the Trust in the event its cash flow is insufficient to pay its obligations, nor shall it constitute a claim against any Beneficial Owner. Notwithstanding anything to the contrary in the above, in all cases, the indemnification provided under this Section 4.5 shall be limited to and only paid out of the Trust Estate.

Section 4.6 Removal; Resignation; Succession. The Delaware Trustee and Independent Trustee may resign at any time by giving at least sixty (60) days' prior written notice to the Manager. The Manager may at any time remove the Delaware Trustee and Independent Trustee for cause by written notice to the Trustees. Cause shall only result from the willful misconduct, bad faith, fraud or gross negligence of the Trustees. Such resignation or removal shall be effective upon the acceptance of appointment by a successor trustee as hereinafter provided. In case of the removal or resignation of a trustee, the Manager may appoint a successor by written instrument. If a successor trustee shall not have been appointed within sixty (60) days after the giving of such notice, the Delaware Trustee, the Independent Trustee or any of the Beneficial Owners may apply to any court of competent jurisdiction in the United States to appoint a successor trustee to act until such time, if any, as a successor shall have been appointed as provided above. Any successor so appointed by such court shall immediately and without further act be superseded by any successor appointed as provided above within one year from the date of the appointment by such court. Any successor, however appointed, shall execute and deliver to its predecessor trustee an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor trustee in the trusts hereunder with like effect as if originally named the Trustee herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers, duties and trusts of such predecessor, and such predecessor shall duly assign, transfer, deliver and pay over to such successor all monies or other property then held by such predecessor upon the trusts herein expressed. Any right of the Beneficial Owners against

a predecessor trustee in its individual capacity shall survive the resignation or removal of such predecessor, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement.

Any successor Delaware Trustee, however appointed, shall be a bank or trust company satisfying the requirements of Section 3807(a) of the Statutory Trust Act. Any corporation into which the Delaware Trustee or Independent Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Delaware Trustee or Independent Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Delaware Trustee or Independent Trustee may be transferred, shall, subject to the preceding sentence, be the Delaware Trustee or Independent Trustee under this Trust Agreement without further act.

Section 4.7 Fees and Expenses. The Delaware Trustee and Independent Trustee shall receive as compensation for its services hereunder such fees as have been separately agreed upon between the Depositor, the Delaware Trustee and the Independent Trustee. The Delaware Trustee and Independent Trustee shall not have any obligation by virtue of this Trust Agreement to spend any of its/their own funds, or to take any action that could result in its/their incurring any cost or expense.

Section 4.8 Signatory Trustee. The Manager may appoint in its sole and absolute discretion, from time to time, a Signatory Trustee to serve with the Delaware Trustee for the limited purpose of executing any documentation that may require the signature of an authorized representative of the Trust. The Trust hereby grants the Signatory Trustee the power, acting alone, to act and sign documents on behalf of the Trust pursuant to the terms of this Section 4.8. The Manager may appoint additional Signatory Trustees and replace any Signatory Trustee. The Signatory Trustee shall not receive any compensation for its services. The initial Signatory Trustee shall be the Manager.

ARTICLE 5
CONCERNING THE MANAGER

Section 5.1 Power and Authority. The investment activities and affairs of the Trust shall be managed exclusively by or under the direction of the Manager. The Manager shall have the power and authority, and is hereby authorized and empowered, to manage the Trust Estate and the investment activities and affairs of the Trust, subject to and in accordance with the terms and provisions of this Trust Agreement, provided that the Manager shall have no power to engage on behalf of the Trust in any activities that the Trust could not engage in directly, and further provided that the Manager shall at all times be subject to the terms and provisions of the Trust Agreement. The Manager shall have the power and authority, and is hereby authorized, empowered, and directed by the Trust, to enter into, execute and deliver, and to cause the Trust to perform its obligations under, each of the Transaction Documents to which the Trust is or becomes a party or signatory, and in furtherance thereof, the Class 2 Beneficial Owner, at any time prior to the issuance of the Conversion Notice, may confirm such authorization, empowerment, and direction and otherwise direct the Manager in connection with the investment activities and affairs of the Trust. The Manager shall at all times during the term of the Trust have a special and limited power of attorney as the attorney-in-fact for each Beneficial Owner, with power and authority to act in the name and on behalf of each such Beneficial Owner to execute, acknowledge, and swear to in the execution, acknowledgment and filing of documents that are not inconsistent with the provisions of this Trust Agreement relating to the FMV Option. Notwithstanding the other provisions of this Section 5.1, the Manager shall have the power and authority to cause the Trust to (i) acquire the Real Estate; and (ii) execute and deliver the Master Lease and the Loan Documents in connection with the acquisition of the Real Estate following the issuance of the Conversion Notice (but, except as otherwise provided herein, shall not have the power to renegotiate, amend, or restate the Master Lease following the issuance of the Conversion Notice). For the avoidance of doubt, the Manager is hereby authorized to approve or disapprove any action or proceeding that would lead to an Insolvency Event in respect of the Trust.

Section 5.2 Manager's Capacity. The Manager acts solely as an agent of the Trust and not in its individual capacity, and all Persons having any claim against the Manager by reason of the transactions contemplated by this Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. In fulfilling the Manager's obligation under this Agreement, the Manager may, in its sole and absolute discretion, engage, on behalf of the Trust, one or more third-party service providers to assist the Manager with certain administrative, recordkeeping, accounting, reporting, and similar services. Notwithstanding any provision of this Trust Agreement to the contrary, the Manager shall not have any liability to any Person except for its own willful misconduct, bad faith, fraud or gross negligence.

Section 5.3 Duties.

(a) The Manager has primary responsibility for performing the administrative actions set forth in this Section 5.3. In addition, the Manager shall have the obligations with respect to a potential sale of the Trust Estate set forth in Article 9. The Manager shall have no duty or obligation to comply with any directive from any Beneficial Owner with respect to the Trust Estate. The Manager shall not have any duty or obligation under or in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, except as expressly provided by the terms of this Trust Agreement, and no implied duties or obligations shall be read into this Trust Agreement against the Manager. The right of the Manager to perform any discretionary act enumerated herein shall not be construed as a duty. To the fullest extent permitted by applicable law, including without limitation Section 3806 of the Statutory Trust Act, (i) the Manager's duties and liabilities relating thereto to the Trust and the Beneficial Owners shall be restricted to those duties expressly set forth in this Trust Agreement and liabilities relating thereto, and (ii) the Manager has no fiduciary duties whatsoever to the Trust or to Beneficial Owners.

(b) Without limiting the generality of Section 5.3(a) above, upon and after the issuance of the Conversion Notice, the Manager, for and on behalf of the Trust, is hereby authorized and directed to take each of the following actions necessary to conserve and protect the Trust Estate:

(1) acquiring the Real Estate and receiving the cash sufficient to enable the Trust to acquire the Real Estate, pursuant to the Purchase Contract and subject to the Leases and entering into the Master Lease and the Loan;

(2) collecting rents under the Master Lease and making distributions in accordance with Article 7;

(3) entering into any agreement for purposes of completing tax-free exchanges of real property with a "qualified intermediary" as defined in Regulation Section 1.1031(k)-1(g)(4);

(4) notifying the relevant parties of any default by them under the Transaction Documents;

(5) take any action which in the reasoned opinion of tax counsel to the Trust, should not have an adverse effect on either the treatment of the Trust as an investment trust within the meaning of Regulations Section 301.7701-4(c) or each Beneficial Owner as a "grantor" within the meaning of Code Section 671; and

(6) solely to the extent necessitated by the impending bankruptcy or insolvency of the Master Tenant or any other Tenant of the Real Estate, if the Trust has not terminated under Section 9.2, entering into a new lease with respect to the Real Estate, renegotiating or refinancing any debt secured by the Real Estate (including, without limitation, the Loan), or amending the existing Leases.

The foregoing notwithstanding, from and after the issuance of the Conversion Notice, under no circumstances shall the power or authority of the Manager include the ability to take any actions which would cause the Trust to cease to constitute an "investment trust" within the meaning of Regulation Section 301.7701-4(c). After issuance of the Conversion Notice, the power and authority of the Manager shall be strictly and narrowly construed so as to preserve and protect the status of the Trust as an "investment trust" for federal income tax purposes.

(c) The Manager or a third-party recordkeeping services provider engaged by the Trust shall keep customary and appropriate books and records relating to the Trust and the Trust Estate. The Manager or such third-party recordkeeping services provider engaged by the Trust shall maintain appropriate books and records in order to provide financial statements of income and expenses to each Beneficial Owner as necessary for such Beneficial Owner to prepare his/her income tax returns regarding the Trust Estate.

(d) Consistent with typical market practice for similarly-situated investment vehicles, the Manager shall furnish to the Beneficial Owners copies of any reports, notices, requests, demands, certificates and financial statements (unless the Manager reasonably believes the same have been already sent directly to the Beneficial Owners in which case the Manager shall have no obligation to re-distribute them).

(e) The Manager shall not be required to act or refrain from acting under this Trust Agreement or the Loan Documents if the Manager reasonably determines, or has been advised by counsel, that such actions or inactions may result in personal liability, unless the Manager is indemnified by the Trust and the Beneficial Owners against any liability and costs (including reasonable legal fees and expenses) which may result in a manner and form reasonably satisfactory to the Manager.

(f) The Manager shall not, on its own behalf (in contrast to actions that the Manager is required to perform on behalf of the Trust), have any duty to (i) file, record or deposit any document or to maintain any such filing, recording or deposit or to refile, rerecord or redeposit any such document, (ii) obtain or maintain any insurance on the Real Estate, (iii) maintain the Real Estate, (iv) pay or discharge any tax levied against any part of the Trust Estate, (v) confirm, verify, investigate or inquire into the failure to receive any reports or financial statements from any party, or (vi) inspect the Real Estate at any time or to ascertain or inquire as to the performance or observance of any of the covenants of any Person.

(g) The Manager shall manage, control, dispose of or otherwise deal with the Trust Estate in its sole and absolute discretion, subject to any restrictions or obligations set forth in this Trust Agreement.

(h) The Manager shall provide to each Person who becomes a Beneficial Owner a copy of this Trust Agreement at or before the time such Person becomes a Beneficial Owner.

Section 5.4 Indemnification. The Class 1 Beneficial Owners and the Trust, jointly and severally, hereby agree to (i) reimburse the Manager for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Trust Agreement, (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless the Manager, and the officers, directors, employees and agents of the Manager (collectively, including the Manager, the "**Manager Indemnified Persons**") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, "**Manager Covered Expenses**"), to the extent that such Manager Covered Expenses arise out of or are imposed upon or asserted at any time against such Manager Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any such Manager Indemnified Persons, with respect to or in connection with this Trust Agreement, the

Trust, the Manager holding title to the Real Estate, or any transaction or document contemplated hereby; *provided*, *however*, that the Class 1 Beneficial Owners shall not be required to indemnify a Manager Indemnified Person for Manager Covered Expenses to the extent such Manager Covered Expenses result from the willful misconduct, bad faith, fraud or gross negligence of such Manager Indemnified Person, and (iii) to the fullest extent permitted by law, advance to each such Manager Indemnified Person, Manager Covered Expenses incurred by such Manager Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Trust Agreement, the Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by any Class 1 Beneficial Owner of an undertaking, by or on behalf of such Manager Indemnified Person, to repay such amount unless a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Manager Indemnified Person is not entitled to be indemnified therefor under this Section 5.4. The obligations of the Class 1 Beneficial Owners and the Trust under this Section 5.4 shall survive the resignation or removal of the Manager, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement. Notwithstanding anything to the contrary in the above, in all cases, the indemnification obligations of the Class 1 Beneficial Owners under this Section 5.4 shall be limited to and only paid out of the Trust Estate. If any legal action or other proceeding is brought by a Class 1 Beneficial Owner for the enforcement of this Trust Agreement or the Transaction Documents, or because of a dispute or an alleged breach, default, or misrepresentation in connection with any provisions of this Trust Agreement or the Transaction Documents, the successful or prevailing party or parties shall be entitled to recover from the non-prevailing party, attorneys' fees, court costs, and all costs and expenses incurred in that action or proceeding in addition to any or all other relief awarded in such legal action or proceeding.

Section 5.5 Fees and Expenses. Except as set forth in Section 9.4 and pursuant to the Asset Management Agreement, the Manager shall receive no compensation for its services as Manager. The Manager shall not have any obligation by virtue of this Trust Agreement to spend any of its own funds, or to take any action that could result in its incurring any cost or expense. While this Trust Agreement remains in effect, the Trust shall reimburse the Manager for all reasonable, out-of-pocket expenses properly incurred by the Manager in performing services under this Agreement (including, but not limited to, fund administration; tax compliance and transfer agent costs and expenses; and all compensation due to the Manager or its Affiliates for reasonably documented services enumerated herein, which shall include, but not be limited to, ratable salary, bonus and fringe benefits of the personnel performing such services, as applicable), *provided*, that, for the avoidance of doubt and subject to applicable law, the Manager and its Affiliates may provide any services contemplated hereunder to the Trust or the Beneficial Owners in lieu of causing the Trust to engage a third party provider to deliver such services so long as the compensation received by the Manager and/or its Affiliates, as applicable, does not exceed the applicable compensation provided for hereunder; *provided*, *further*, that any such services are reflected in a budget, as may be amended and supplemented, provided by the Manager and approved by the Trust, or as may otherwise be approved by the Trust.

Section 5.6 Sale of Trust Estate by Manager Is Binding. Any sale or other conveyance of the Trust Estate or any part thereof by the Manager made for and on behalf of the Trust pursuant to the terms of this Trust Agreement, including but not limited to the contribution of the Trust Estate to an entity in exchange for ownership interests in such entity in a transaction structured as a tax-deferred contribution of all, or a part of, the Trust Estate to such entity under Section 721 of the Code, and the distribution of such ownership interests to the Investors in liquidation of the Trust pursuant to Article 9, shall bind the Trust and the Beneficial Owners and be effective to transfer or convey all rights, title and interest of the Trust and the Beneficial Owners in and to the Trust Estate.

Section 5.7 Removal/Resignation; Succession. The Manager may resign at any time by giving at least thirty (30) days' prior written notice to the Delaware Trustee. The Delaware Trustee may, (i) at all times prior to the payment in full of the Loan, or (ii) at any time thereafter, either (I) remove the

Manager for cause by written notice to the Manager, or (II) limit the duties of the Manager under this Trust Agreement. Notwithstanding anything to the contrary contained herein, (a) until the date on which all obligations of the Trust under the Loan Documents are indefeasibly and fully satisfied, the resignation or removal of the Manager shall be done in a manner that is not inconsistent with the terms of the Loan Documents, and (b) the removal of the Manager shall not be effective until the Manager and each of its Affiliates have been fully removed from any guarantee and indemnity obligations they may have with respect to the Loan. Further, "cause" sufficient to warrant a vote for removal shall exist only in the event of the willful misconduct, bad faith, fraud or gross negligence of the Manager which causes material damage to, or diminution in value of, the Trust Estate. Such resignation or removal shall be effective upon the acceptance of appointment by a successor Manager as hereinafter provided. In case of the removal or resignation of the Manager, the Trustees may appoint a successor by written instrument. If a successor Manager shall not have been appointed within fifteen (15) days after the giving of such notice, the Manager or any of the Beneficial Owners may apply to any court of competent jurisdiction in the United States to appoint a successor Manager to act until such time, if any, as a successor shall have been appointed as provided above. Any successor so appointed by such court shall immediately and without further act be superseded by a successor appointed as provided above within one (1) year from the date of the appointment by such court. Any successor, however appointed, shall execute and deliver to its predecessor Manager an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the rights, powers and duties of the predecessor Manager in the trust hereunder with like effect as if originally named the Manager herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trust herein expressed, all the rights, powers and duties of such predecessor. Any right of the Beneficial Owners against a predecessor Manager in its individual capacity shall survive the resignation or removal of such predecessor Manager, shall survive the dissolution and termination of the Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Trust Agreement.

ARTICLE 6
BENEFICIAL INTERESTS

Section 6.1 Issuance of Class 1 and Class 2 Beneficial Ownership Certificates.

(a) Simultaneous with the execution of this Trust Agreement, the Trust shall issue a Class 2 Beneficial Ownership Certificate to the Depositor in exchange for the Depositor having facilitated the Trust's acquisition of the Real Estate. The Class 2 Beneficial Ownership Certificate, in substantially the form set forth in **Exhibit B-2**, with such appropriate insertions, omissions, substitutions, endorsements and other variations as are required by this Trust Agreement, and with such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may, consistent herewith, be approved by the Manager, shall be issued in registered form and delivered to, and registered in the name of, the Depositor. Each Class 2 Beneficial Ownership Certificate shall include the date of its execution. Any portion of any Class 2 Beneficial Ownership Certificate may be set forth on the reverse or subsequent pages thereof. The Class 2 Beneficial Ownership Certificate shall be produced in electronic form a, printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced or may be produced in any other manner as may, consistently herewith, be determined by the Manager. While the Class 2 Beneficial Interests are held by a single Beneficial Owner, Class 2 Beneficial Ownership Certificate shall represent ownership of the entire Percentage Share from time to time of the Class 2 Beneficial Interests. If, at any time, the Class 2 Beneficial Interests are held by more than one Beneficial Owner, each Class 2 Beneficial Ownership Certificate shall represent ownership of the Percentage Share of the Beneficial Interests to which it corresponds.

(b) Following the issuance of the Conversion Notice, one or more Investors who have executed Purchase Agreement(s) shall contribute cash to the Trust, and the Trust shall issue a Class 1 Beneficial Ownership Certificate to each contributing Investor. Each contributing Investor shall be issued

a Class 1 Beneficial Ownership Certificate, in substantially the form set forth in **Exhibit B-1**, with such appropriate insertions, omissions, substitutions and other variations to evidence their investment and as are otherwise required by this Trust Agreement, and with such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may, consistent herewith, be approved by the Manager. Such Class 1 Beneficial Ownership Certificates shall be issued in registered form and delivered to, and registered in the name of, the applicable Investor. Each Class 1 Beneficial Ownership Certificate shall be printed and dated the date of its execution. Any portion of any Class 1 Beneficial Ownership Certificate may be set forth on the reverse or subsequent pages thereof. The Class 1 Beneficial Ownership Certificate shall be printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced or may be produced in any other manner as may, consistently herewith, be determined by the Manager.

(c) The Manager, or its agent appointed consistent with the authorization granted pursuant to Section 5.2, is hereby authorized to execute each Beneficial Ownership Certificate for and on behalf of the Trust consistent with the customary business process, including through physical or electronic signature, such execution to constitute the authentication of the relevant certificate.

(d) Each Beneficial Ownership Certificate bearing the signature of any individual who at the time such Beneficial Ownership Certificate was executed was a duly authorized officer of the Manager shall bind the Trust, notwithstanding that any such individual has ceased to hold such office or to be a duly authorized officer of the Manager prior to the delivery of such Beneficial Ownership Certificate or at any time thereafter. No Beneficial Ownership Certificate shall be valid for any purpose unless it is executed on behalf of the Trust by the Manager. The signature of a duly authorized officer of the Manager on any Beneficial Ownership Certificate shall be conclusive evidence that such Beneficial Ownership Certificate has been duly executed and authenticated under this Trust Agreement.

(e) Any Beneficial Owner shall be deemed, by virtue of the acceptance of such Beneficial Ownership Certificate or beneficial interest therein, to have agreed, accepted and become bound by, and subject to, the provisions of this Trust Agreement. Each Beneficial Owner hereby acknowledges and agrees that, in its capacity as a Beneficial Owner, it has no ability either to (i) petition for a partition of the assets of the Trust, (ii) file a petition in bankruptcy on behalf of the Trust, or (iii) take any action that consents to, aids, supports, solicits or otherwise cooperates in the filing of an involuntary bankruptcy proceeding involving the Trust.

(f) Notwithstanding anything to the contrary in this Trust Agreement, any provisions of this Trust Agreement relating to Beneficial Ownership Certificates shall be construed as optional, and it shall be within the Manager's sole and absolute discretion as to whether or not the Trust issues Beneficial Ownership Certificates pursuant to the terms and provisions of this Trust Agreement or, in the alternative, determines and evidences the fact of ownership of a Beneficial Interest in the Trust by registration or otherwise as contemplated in Section 3801(a) of the Statutory Trust Act.

Section 6.2 Ownership Records. The Manager shall at all times be the Person at whose office a Beneficial Ownership Certificate may be presented or surrendered for registration of transfer or for exchange and where notices and demands to or upon the Trust in respect of a Beneficial Ownership Certificate may be served. The Manager shall keep or otherwise engage a third-party recordkeeping service provider to maintain the Ownership Records, which shall include records of the transfer and exchange of Beneficial Interests. Notwithstanding any provision of this Trust Agreement to the contrary, transfer of a Beneficial Interest in the Trust, or of any right, title or interest therein, shall occur only upon and by virtue of the entry of such transfer in the Ownership Records. In the event of any transfer not prohibited under the terms of this Trust Agreement, the Manager shall issue a new Beneficial Ownership Certificate setting forth the current percentage interest in the Trust held by such new Beneficial Owner, the transferring Beneficial Owner shall surrender its Beneficial Ownership Certificate for cancellation and if applicable the Manager shall issue a new Beneficial Ownership Certificate setting forth the Beneficial Interest retained by any

transferring Beneficial Owner. The Beneficial Ownership Certificates may not be negotiated, endorsed or otherwise transferred to a holder in violation of Sections 6.4, 6.5 or 6.6.

Section 6.3 Mutilated, Destroyed, Lost or Stolen Beneficial Ownership Certificates. If any Beneficial Ownership Certificate shall become mutilated, destroyed, lost or stolen, the Trust shall, upon the written request of the holder of any Beneficial Ownership Certificate thereof and presentation of the Beneficial Ownership Certificate or satisfactory evidence of destruction, loss or theft thereof to the Manager, issue and deliver in exchange therefor or in replacement thereof, a new Beneficial Ownership Certificate in the name of such Beneficial Owner evidencing the same Beneficial Interest and dated the date of its execution. If the Beneficial Ownership Certificate being replaced has become mutilated, such Beneficial Ownership Certificate shall be surrendered to the Manager. If the Beneficial Ownership Certificate being replaced has been destroyed, lost or stolen, the Beneficial Owner thereof shall furnish to the Trust and the Manager (i) a written indemnity by such Beneficial Owner to the Trust and the Manager which provides for such Person to save the Trust and the Manager harmless; and (ii) evidence satisfactory to the Trust and the Manager of the destruction, loss or theft of such Beneficial Ownership Certificate and of the ownership thereof. The applicable Beneficial Owner shall pay any tax imposed in connection therewith.

Section 6.4 Restrictions on Transfer. Except for a Permitted Transfer, the prior written consent of the Manager, which may be withheld in its sole and absolute discretion, is required in connection with the assignment, transfer, pledge or encumbrance of all or any portion of the Beneficial Interest of any Beneficial Owner. All expenses of any Permitted Transfer shall be paid by the assigning or transferring Beneficial Owner (including any internal costs incurred by the Manager or its Affiliates to process such expenses, in the Manager's reasonable discretion). Any purported transfer, assignment, pledge or encumbrance of a Class 1 Beneficial Interest in violation of the foregoing shall be null, void and of no effect whatsoever. In the event of any breach of this Section 6.4, the Beneficial Owner engaging in or attempting any action prohibited by the foregoing shall indemnify, defend, and hold harmless the Manager and its Affiliates from and against any losses, liabilities, claims, costs, and expenses (including legal fees) incurred in connection with curing, unwinding, or otherwise addressing any compliance obligations or adverse consequences arising from such prohibited assignment, transfer, pledge, or encumbrance under this Trust Agreement or the Loan Documents. Such Beneficial Owner further agrees that the Manager may take any reasonable action, in its sole discretion, to remedy or rectify the effects of such prohibited action.

Section 6.5 Conditions to Admission of New Beneficial Owners. Any assignee or transferee of a Class 1 Beneficial Owner shall become a Class 1 Beneficial Owner only upon such assignee's or transferee's written acceptance and adoption of this Trust Agreement, as manifested by its execution and delivery to the Manager of an executed agreement substantially in the form of **Exhibit E**, plus the issuance by the Trust of a new Class 1 Beneficial Ownership Certificate to such assignee or transferee, copies of which will be provided by the Manager to the Delaware Trustee. Any assignee or transferee of a Class 2 Beneficial Owner shall become a Class 2 Beneficial Owner upon the transfer of such Class 2 Beneficial Interests in accordance with Section 6.2 hereof and shall be deemed to have accepted and adopted the terms of this Trust Agreement upon the completion of such transfer.

Section 6.6 Limit on Number of Beneficial Owners. Notwithstanding anything to the contrary in this Trust Agreement, the Trust shall at no time have more than one thousand nine hundred and ninety-nine (1,999) Beneficial Owners. Any transfer that results in a violation of the preceding sentence shall, to the fullest extent permitted by law, be null, void and of no effect whatsoever.

Section 6.7 Representations and Acknowledgments of Beneficial Owners. Each Beneficial Owner hereby represents and warrants that it (i) is not acquiring its Beneficial Interest with a view to any distribution thereof in a transaction that would violate the Securities Act or the securities laws of any state of the United States; and (ii) is aware of the restrictions on transfer that are applicable to the Beneficial

Interests and will not offer, sell, pledge or otherwise transfer its Beneficial Interest except in compliance with all terms and conditions of this Trust Agreement and applicable securities laws and regulations. Each Beneficial Owner hereby acknowledges that (y) no Beneficial Interest may be sold, transferred or otherwise disposed of unless expressly permitted hereunder and it is registered or qualified under the Securities Act and all other applicable laws of any applicable jurisdiction or an exemption therefrom is available in accordance with all other laws of any applicable jurisdiction; and (z) no Beneficial Interest has been or is expected to be registered under the Securities Act, and accordingly, all Beneficial Interests are subject to restrictions on transfer.

Section 6.8 Status of Relationship. This Trust Agreement shall not be interpreted to impose a partnership or joint venture relationship on the Beneficial Owners either at law or in equity. Accordingly, no Beneficial Owner shall have any liability for the debts or obligations incurred by any other Beneficial Owner, with respect to the Trust Estate, or otherwise, and no Beneficial Owner shall have any authority, other than as specifically provided herein, to act on behalf of any other Beneficial Owner or to impose any obligation on any other Beneficial Owner with respect to the Trust Estate. Neither the power to give direction to the Trustees, the Manager, or any other Person nor the exercise thereof by any Beneficial Owner shall cause such Beneficial Owner to have duties (including fiduciary duties) or liabilities relating thereto to the Trust or to any Beneficial Owner. For the avoidance of doubt, the Manager has no fiduciary duties to Beneficial Owners.

Section 6.9 No Legal Title to Trust Estate. The Beneficial Owners shall not have legal title to the Trust Estate. The death, incapacity, dissolution, termination, or bankruptcy of any Beneficial Owner, Manager or Delaware Trustee shall not result in the termination or dissolution of the Trust.

Section 6.10 In-Kind Distributions. Except as expressly provided in Section 9.2, no Beneficial Owner (i) has an interest in the specific Trust Estate or (ii) shall have any right to demand and receive from the Trust an in-kind distribution of the Trust Estate or any portion thereof. In addition, each Beneficial Owner expressly waives any right, if any, under the Statutory Trust Act to seek a judicial dissolution of the Trust, to terminate the Trust, or, to the fullest extent permit by law, to partition the Trust Estate.

Section 6.11 Rights and Powers of Class 2 Beneficial Owner Prior to Conversion Notice. Prior to the issuance of the Conversion Notice, the Class 2 Beneficial Owner shall have the right and power, at its sole and absolute discretion (but subject to the restrictions in Article 3), to:

(a) Contribute additional assets to the Trust;

(b) Cause the Trust to negotiate or re-negotiate loans or Leases; and

(c) Cause the Trust to sell all or any portion of its assets and re-invest the proceeds of such sale or sales.

It is expressly understood by the Class 2 Beneficial Owner that these powers are inconsistent with the ability to classify the Trust as an "investment trust" under Regulations Section 301.7701-4(c), and the Trust shall not be so classified prior to the issuance of the Conversion Notice. The Percentage Share of the Class 2 Beneficial Owner prior to the issuance of any Class 1 Beneficial Interests (pursuant to Section 6.14 hereof) shall be one hundred percent (100.0%).

Section 6.12 Issuance of Conversion Notice. The Class 2 Beneficial Owner may, at any time in its sole and absolute discretion, issue the Conversion Notice to the Delaware Trustee and the Manager. Upon issuance of the Conversion Notice, the Class 2 Beneficial Owner shall no longer have any of the rights or powers set forth in Section 6.11. Instead, the Class 2 Beneficial Owner shall have only those rights and powers as apply to a Class 1 Beneficial Owner (as set forth in Section 6.13).

Section 6.13 **Rights and Powers of Class 1 Beneficial Owners.** The Class 1 Beneficial Owners shall only have the right to receive distributions from the Trust as a result of the operations or sale of the Real Estate. The Class 1 Beneficial Owners shall not have the right or power to direct in any manner the Trust or the Manager in connection with the operation of the Trust or the actions of the Delaware Trustee or the Manager. In addition, the Class 1 Beneficial Owners shall not have the right or power to:

(a) Contribute additional assets to the Trust;

(b) Be involved in any manner in the operation or management of the Trust or its assets;

(c) Cause the Trust to negotiate or re-negotiate loans or Leases; or

(d) Cause the Trust to sell its assets and re-invest the proceeds of such sale.

Section 6.14 **Contributions by the Class 1 Beneficial Owners; Issuance of Class 1 Beneficial Ownership Certificates; Reduction in Class 2 Beneficial Interests.** The Trust shall issue Class 1 Beneficial Ownership Certificates to Investors upon the contribution of cash to the Trust by the Investors in exchange for Class 1 Beneficial Interests. The Trust will issue Class 1 Beneficial Interests equivalent to up to one hundred (100.0%) Percentage Share of the Trust. Each Investor's contributed capital shall be memorialized in their respective Purchase Agreement, which shall inform the Percentage Share attributable to such Investor. All cash contributed by Investors in exchange for Class 1 Beneficial Interests shall be used first by the Trust to pay all reasonable and necessary costs of sale to the Investors of the Class 1 Beneficial Interests. In connection with each such sale of Class 1 Beneficial Interests, the Trust shall repurchase a corresponding portion of the Class 2 Beneficial Interest then held by the Depositor. With respect to each contribution by a Class 1 Beneficial Owner and related repurchase of a portion of the Class 2 Beneficial Interest then held by the Depositor, the reduction of the Percentage Share of the Depositor shall be equal to the Percentage Share granted by the Trust to the contributing Class 1 Beneficial Owner. At such time, the Depositor shall surrender its Class 2 Beneficial Ownership Certificate for cancellation and issuance of a new Class 2 Beneficial Ownership Certificate reflecting the Depositor's remaining Percentage Share, if any. Upon the sale of all of the Class 1 Beneficial Interests, the Depositor and any permitted assignee of the Class 2 Beneficial Interests will no longer have any Beneficial Interest in the Trust, and no Class 2 Beneficial Interests will remain outstanding. For federal income tax purposes, all funds received by the Trust from the Investors after issuance of the Conversion Notice shall be treated as having been used to enable the Trust to acquire the Real Estate and pay the associated costs and expenses in connection therewith. Moreover, all funds received by the Trust from the Investors after issuance of the Conversion Notice shall be used to repurchase a corresponding portion of the Class 2 Beneficial Interest then held by the Depositor so that in no event may such repurchase result in a net increase or decrease in the corpus of the Trust.

Section 6.15 **Bank Holding Company Act.** Any Interest held directly or indirectly for its own account by a Class 1 Beneficial Owner that is a "bank holding company," as defined in section 2(a) of the BHC Act, or a non-bank subsidiary of such bank holding company, or a foreign bank subject to the BHC Act pursuant to the International Banking Act of 1978, as amended, or a subsidiary of any such foreign bank subject to the BHC Act (each, a "**BHC Beneficial Owner**"), together with the Interests of all Affiliates (as defined under the BHC Act) of such BHC Beneficial Owner, that is determined at the time of admission of that Beneficial Owner, the withdrawal of another Beneficial Owner or any other event resulting in an adjustment in the relative Interests of the Beneficial Owners hereunder to be in the aggregate in excess of 4.99% of the Interests of the Beneficial Owners, excluding for purposes of calculating this percentage portions of any other interests that are non-voting Interests pursuant to this Section 6.15 or any other section of this Trust Agreement (collectively the "**Non-Voting Interests**"), shall be a Non-Voting Interest (whether or not subsequently transferred in whole or in part to any other person) and shall not be included in

determining whether the requisite percentage in Interest of the Beneficial Owners have consented to, approved, adopted or taken any action hereunder; *provided*, that such Non-Voting Interest shall be permitted to vote on matters as to which non-voting equity interests are permitted to vote pursuant to 12 CFR § 225.2(q)(2) to the extent not otherwise restricted pursuant to the terms of this Trust Agreement. Each BHC Beneficial Owner hereby irrevocably waives its corresponding right to vote in respect of its Non-Voting Interest in respect of any successor manager or successor trustee under applicable law, if any, which waiver shall be binding upon such BHC Beneficial Owner or any entity which succeeds to its Interest. Upon the date of any subsequent admission of an additional Beneficial Owner, any withdrawal of a Beneficial Owner, or any other event resulting in an adjustment in the relative Interests of the Beneficial Owners hereunder (each such date, a "**BHC Recalculation Date**"), a recalculation of the Interests held by all BHC Beneficial Owners and their Affiliates shall be made, and only that portion of the total Interest held by each BHC Beneficial Owner and its Affiliates that is determined as of the applicable BHC Recalculation Date, to be in the aggregate in excess of 4.99% of the Interests of the Beneficial Owners, excluding Non-Voting Interests as of such date, shall be a Non-Voting Interest.

Section 6.16 Subordination to Loan Documents. While the Loan Documents remain in effect, any and all rights of the Investors pursuant to the terms of this Trust Agreement are subordinate to the rights of the Lender under the Loan Documents.

ARTICLE 7
DISTRIBUTIONS AND REPORTS

Section 7.1 Payments From Trust Estate Only. All payments to be made by the Manager under this Trust Agreement shall be from the Trust Estate.

Section 7.2 Distributions in General. The Manager shall distribute all available cash to the Beneficial Owners in accordance with their Percentage Shares on a monthly basis in arrears, but only after (i) paying or reimbursing the Delaware Trustee, Independent Trustee and then the Manager, respectively, for any claims subject to indemnification (including as provided in Sections 4.5 and 5.4, respectively) and for their respective reasonable fees and/or expenses (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses, as applicable) actually incurred on behalf of the Trust, (ii) retaining such additional amounts as the Manager in its sole and absolute discretion determines are necessary to pay anticipated ordinary current and future Trust expenses ("**Reserves**"), (iii) satisfying debt service and related expenses on the Loan; and (iv) paying all due and appropriate expenses owed to the Master Tenant under the Master Lease or otherwise owed pursuant to Trust Agreement. Reserves and any other cash retained pursuant to this paragraph shall be invested by or on behalf of the Manager only in cash or short-term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof and in certificates of deposit or interest-bearing bank accounts of any bank or trust companies having a minimum stated capital and surplus of $100,000,000. All such obligations must mature prior to the next distribution date, and be held to maturity. All amounts distributable to the Beneficial Owners pursuant to this Trust Agreement shall be paid by check or in immediately available funds by transfer to a banking institution with bank wire transfer facilities for the account of such Beneficial Owner, as instructed from time to time by such Beneficial Owner on the last Business Day of each calendar quarter.

Section 7.3 Distribution Upon Dissolution. In the event of the Trust's dissolution in accordance with Article 9 hereof, all of the Trust Estate as may then exist after the winding up of its affairs in accordance with the Statutory Trust Act (including without limitation subsections (d) and (e) of Section 3808 of the Statutory Trust Act and providing for all costs and expenses, including any income or transfer taxes which may be assessed against the Trust, whether or not by reason of the dissolution of the Trust), shall, subject to Section 9.2, be distributed to those Persons who are then Beneficial Owners in their respective Percentage Shares.

Section 7.4 **Cash and Other Accounts; Financial Statements.** The Manager shall be responsible for receiving all cash from the Master Tenant and placing such cash into one or more accounts as required under the distribution and investment obligations of the Trust under Section 7.2. The Manager shall furnish annual reports to each of the Beneficial Owners that detail the amounts of rent received from the Master Tenant, the expenses incurred by the Trust with respect to the Real Estate (if any), the amount of any Reserves and the amount of the distributions made by the Trust to the Beneficial Owners.

Section 7.5 **Information.** Upon written demand of the Manager made by a Beneficial Owner, which written demand may not be made more than once per calendar quarter, a Beneficial Owner shall have the right to receive a copy of this Trust Agreement and the Certificate of Trust, and any amendments to either of them, *provided* that such copy shall not contain any identifying information with regard to any other Beneficial Owner. Except as specifically set forth in Sections 7.4 or 7.5, or elsewhere in this Trust Agreement, no Beneficial Owner or group of Beneficial Owners shall have any right to demand or receive any information, report, financial statement, or document from the Manager or Trustees. Without limiting the foregoing, no Beneficial Owner shall have the right under this Trust Agreement to receive, review, copy or inspect any list of the Beneficial Owners or any identifying information with regard to the Beneficial Owners, whether or not requested, and the Manager shall not have any obligation to provide such information. Notwithstanding anything to the contrary contained herein or the Statutory Trust Act, a Beneficial Owner or group of Beneficial Owners shall not have any of the rights to information or other rights set forth in §3819 of the Statutory Trust Act.

ARTICLE 8
RELIANCE; REPRESENTATIONS; COVENANTS

Section 8.1 **Good Faith Reliance.** Neither the Delaware Trustee nor the Manager (including in its capacity as Signatory Trustee) shall incur any liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably and in good faith believed by such Person to be genuine and signed by the proper party or parties thereto. As to any fact or matter, the manner of ascertainment of which is not specifically described herein, the Delaware Trustee and the Manager may for all purposes hereof rely on a certificate, signed by or on behalf of the Person executing such certificate, as to such fact or matter, and such certificate shall constitute full protection of the Delaware Trustee and the Manager for any action taken or omitted to be taken by them in good faith in reliance thereon, and the Delaware Trustee and the Manager may conclusively rely upon any certificate furnished to such Person that on its face conforms to the requirements of this Trust Agreement. Each of the Delaware Trustee and the Manager may (i) exercise its powers and perform its duties by or through such attorneys and agents as it shall appoint with due care, and it shall not be liable for the acts or omissions of such attorneys and agents; and (ii) consult with counsel, accountants and other experts, and shall be entitled to rely upon the advice of counsel, accountants and other experts selected by it in good faith and shall be protected by the advice of such counsel and other experts in anything done or omitted to be done by it in accordance with such advice. In particular, no provision of this Trust Agreement shall be deemed to impose any duty on the Delaware Trustee or the Manager to take any action if such Person shall have been advised by counsel that such action may involve it in personal liability or is contrary to the terms hereof or to applicable law. For all purposes of this Trust Agreement, the Delaware Trustee shall be fully protected in relying upon the most recent Ownership Records delivered to it by the Manager.

Section 8.2 **No Representations or Warranties as to Certain Matters.** NEITHER THE DELAWARE TRUSTEE NOR THE MANAGER, EITHER WHEN ACTING HEREUNDER IN ITS CAPACITY AS DELAWARE TRUSTEE OR MANAGER OR IN ITS OR THEIR INDIVIDUAL CAPACITY, MAKES OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, LOCATION, VALUE, CONDITION, WORKMANSHIP, DESIGN, COMPLIANCE WITH SPECIFICATIONS, CONSTRUCTION,

OPERATION, MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE OF THE TRUST ESTATE OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRUST ESTATE OR ANY PART THEREOF.

Neither the Delaware Trustee nor the Manager makes any representation or warranty as to (i) the title, value, condition or operation of the Real Estate, and (ii) the validity or enforceability of Transaction Documents or as to the correctness of any statement contained in any thereof, except as expressly made by the Delaware Trustee or the Manager in its individual capacity. Each of the Delaware Trustee and the Manager represents and warrants to the Beneficial Owners that it has authorized, executed and delivered the Trust Agreement.

ARTICLE 9
TERMINATION

Section 9.1 Termination in General. The Trust shall not have perpetual existence and instead shall be dissolved and wound up in accordance with Section 3808 of the Statutory Trust Act upon the first to occur of a Transfer Distribution or the sale or other transfer of the Trust Estate, including pursuant to Section 9.3, at which time each Beneficial Owner's Percentage Share of the Trust Estate shall be distributed to such Beneficial Owner in accordance with Section 7.3; *provided*, *however*, that in connection with a sale of the Trust Estate in accordance with Section 7.3, the Loan shall have been defeased, paid in full or assumed in accordance with the terms of the Loan Documents. Notwithstanding any other provision of this Trust Agreement, the bankruptcy of a trustee or a beneficiary shall not cause the trustee or the beneficiary, respectively, to cease to be a trustee or beneficiary of the Trust and upon the occurrence of such an event, the Trust shall continue without dissolution.

Section 9.2 Termination to Protect and Conserve Trust Estate. Upon the first to occur of (i) a sale of the Trust Estate pursuant to Section 9.3 or (ii) if the Conversion Notice has been issued and the Manager determines that (a) the Master Tenant is insolvent or has failed to timely pay the full rent due under the Master Lease after the expiration of any applicable notice and cure provisions in the Master Lease (not including any permitted deferral of rent due pursuant to Section 4.2 of the Master Lease) and the Manager is prohibited from acting pursuant to Section 3.3 hereof, (b) the Master Tenant files for bankruptcy, seeks appointment of a receiver, makes an assignment for the benefit of its creditors or there occurs any similar event, (c) the Trust is otherwise terminated in violation of Section 3.3(c), or (d) the Manager needs to take, but is precluded from taking, one of the actions enumerated in Section 3.3(c) and the Manager determines in writing that dissolution of the Trust is necessary and appropriate to preserve and protect the Trust Estate for the benefit of the Beneficial Owners, then, in any such case, the Trust shall dissolve and wind up in accordance with Section 3808 of the Statutory Trust Act and each Beneficial Owner's Percentage Share of the Trust Estate shall be distributed to such Beneficial Owner in accordance with this Section 9.2 in full and complete satisfaction and redemption of their Beneficial Ownership Certificates. Subject to the requirements of Section 3808 of the Statutory Trust Act, immediately before any such liquidating distributions, and only in the event that a distribution is to be made to the Beneficial Owners under Section 9.2(ii), the Manager shall transfer title to the assets comprising the Trust Estate to a newly formed Delaware limited liability company (the "**LLC**") that has a limited liability company operating agreement substantially similar to that set forth in **Exhibit F** (the "**Transfer Distribution**"). As part of the Transfer Distribution, the Manager shall cause the membership interests in the LLC to be distributed to the Beneficial Owners in proportion to their Percentage Shares immediately prior to the dissolution of the Trust in complete satisfaction of their Beneficial Interests and their Beneficial Ownership Certificates in order to consummate the dissolution of the Trust. It is the express intent of this Trust Agreement that no distribution be made under this Section 9.2 except in the rare and unexpected situation

in which such distribution is necessary to prevent the loss of the Trust Estate. To the fullest extent permitted by applicable law, the Manager shall be fully protected in any such determination made in good faith that a condition under Section 9.2(ii) exists, and shall have no liability to any Person, including without limitation the Beneficial Owners, with respect to any such determination. If a determination has been made to make a Transfer Distribution under Section 9.2(ii), the Manager may, in its sole and absolute discretion and upon advice of counsel, utilize such other form of transaction (including, without limitation, a conversion of the Trust into a limited liability company if then permitted by applicable law) to accomplish the transaction contemplated by the Manager pursuant to the Transfer Distribution (which other form of transaction shall only require the approval of the Manager and shall not require the approval of any Beneficial Owners or the Trustees), *provided* that such alternative form of transaction is entered into to preserve and protect the Trust Estate for the benefit of the Beneficial Owners and is otherwise in compliance with the Statutory Trust Act. The Lender's security interests or pledges on any of the Beneficial Interests shall automatically attach to the replacement membership interests in the LLC (and the Manager and such Beneficial Owners agree to execute any documentation as shall be reasonably necessary to perfect the Lender's security interests and pledges in such membership interests). The LLC shall acquire, by operation of law, contract, or otherwise, the Trust Estate subject to the then-outstanding obligations of the Trust under the Loan Documents and the Master Lease, and the LLC shall assume, by operation of law, contract, or otherwise, the Trust's obligations under the Loan Documents and the Master Lease. The Manager shall take all other actions necessary to complete the termination and winding up of the Trust, the formation of the LLC, and the Transfer Distribution in accordance with applicable Delaware laws relating to the Trust and the Delaware LLC Act. To the fullest extent permitted by applicable law, the Signatory Trustee shall be fully protected in any determinations made under this Section 9.2 made in good faith, and shall have no liability to any Person, including without limitation the Beneficial Owners, with respect thereto.

Section 9.3 Sale of the Trust Estate. Pursuant to Section 3806(b)(3) of the Statutory Trust Act, the Manager shall sell or transfer the Trust Estate upon its determination (in its sole and absolute discretion) that a sale or transfer of the Trust Estate is appropriate; *provided*, *however*, that it is the intent of the parties to this Trust Agreement that the Trust Estate will be held by the Trust for at least two (2) years. Any such sale or transfer of the Trust Estate shall occur as soon as practicable after the Manager has determined that the sale or transfer of the Trust Estate is appropriate and in such manner as the Manager determines to be in the best interests of the Trust. The Manager shall be responsible for (i) determining the fair market value of the Trust Estate, (ii) providing notice to the Trustees of the sale or transfer of the Trust Estate and (iii) conducting the sale or transfer of the Trust Estate on behalf of the Trust under commercially reasonable terms and executing such documents and instruments required to be executed by the Trust to affect such sale or transfer (Manager shall also provide to the Trustees in execution form any documents and instruments required to be executed by the Trustees to affect such sale or transfer). The Manager (and the Trustees, if necessary) shall take all reasonable action that would seek to enable the sale to qualify, with respect to each Beneficial Owner, as a like-kind exchange within the meaning of Code Section 1031 or a tax deferred contribution under Code Section 721. Any sale or transfer of the Real Estate shall be on an "as-is, where-is" basis (or on such terms as are deemed commercially reasonable by the Manager) and without any representations or warranties by the Trustees or the Manager (other than representations as to their respective authority to enter into the sale). The Beneficial Owners agree to reimburse the Manager for reasonable and customary expenses incurred with respect to this Section 9.3.

Section 9.4 Organization and Offering Expenses. The Manager shall receive reimbursement of organization and offering expenses from the Trust on a non-accountable basis in an amount equal to 0.5% of the Maximum Offering Amount (as defined in the Memorandum). Any sales commissions due to third-party brokers shall not be paid from this amount.

Section 9.5 Certificate of Cancellation. Upon the completion of the dissolution and winding up of the Trust, the Certificate of Trust shall be cancelled by the Delaware Trustee who upon direction by

the Manager, and at the expense of the Trust, and the Delaware Trustee shall execute and cause a certificate of cancellation to be filed in the office of the Secretary of State.

ARTICLE 10
FMV OPTION

Section 10.1 FMV Option. Subject to full compliance with the requirements of Sections 10.2 and 10.3, the Option Holder may offer the Beneficial Owners the opportunity to sell their Interests to one or more entities organized or identified by the Sponsor (each, an "**Exchange Entity**") for cash (the "**FMV Option**"). The purchase price payable in cash to any Beneficial Owner whose Interests are acquired for cash (the "**Cash Value**") shall equal the then fair market value of such Beneficial Owner's Interest as of the date the FMV Option is exercised, *less*, solely with respect to such Beneficial Owner, a cash redemption fee in an amount up to 2.5% of the then-fair market value of each such electing Beneficial Owner's Interests (the "**Cash Redemption Fee**"), which Cash Redemption Fee shall be remitted to the Manager; *provided*, *however*, that the Manager may reallow a portion of the Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated disposition of Interests pursuant to the FMV Option, the Beneficial Owners have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. The foregoing notwithstanding, the Option Holder may alternatively present each Beneficial Owner an option but not the obligation to receive units of an equal aggregate value to the Cash Value ("**Units**") of such Beneficial Owner's Interests, as of the date the FMV Option is exercised (in lieu of the Cash Value), issued by one or more Exchange Entities, in each case pursuant to a transaction (an "**Exchange**") intended to qualify as a tax-deferred exchange under Code Section 721, pursuant to the terms of this Article 10. Any such election by a Beneficial Owner to receive either the Cash Value or Units shall apply to all of such Beneficial Owner's Interests subject to the FMV Option, and no Beneficial Owner may elect to receive cash with respect to a portion of its Interests and Units with respect to the remainder. For the avoidance of doubt, no Cash Redemption Fee shall be charged, imposed, or deducted in connection with any Exchange in which a Beneficial Owner receives Units in lieu of cash, and the value of such Units shall be determined without regard to the Cash Redemption Fee.

Section 10.2 Notices and Process. The FMV Option shall be exercised pursuant to a "**Notice of FMV Option**," a form of which is attached as **Exhibit G** to this Trust Agreement, delivered to the Beneficial Owners by the Option Holder. Notwithstanding anything to the contrary, the Option Holder may not exercise the FMV Option until all Beneficial Owners have held their Beneficial Interests for at least two (2) years. If a Beneficial Owner elects to exercise its right to have an Exchange Entity exchange such Beneficial Owner's Interests for Units, such Beneficial Owner shall so notify the Option Holder in writing within twenty (20) business days after the date on which the Option Holder mails the Notice of FMV Option to the Beneficial Owner (the "**Unit Notice**"). If a Beneficial Owner does not provide a Unit Notice to the Option Holder within twenty (20) business days after the mailing date of the Notice of FMV Option, such Beneficial Owner shall be deemed to have irrevocably elected to receive the Cash Value and, solely in such case, shall be subject to the Cash Redemption Fee in accordance with Section 10.1. For the avoidance of doubt, each Beneficial Owner's election to receive the Units (or receive Cash Value) shall be made individually and independently of the elections of other Beneficial Owners.

Section 10.3 Documentation and Signatures; Delivery. Each Beneficial Owner agrees to execute such documents and signatures as the Option Holder may reasonably require in connection with the exercise of the FMV Option under Section 10.1. Upon receipt of any and all documents and signatures required by the Option Holder under this Section 10.3 (such date of final receipt, the "**Receipt Date**"), the Option Holder shall distribute to any Beneficial Owner the Cash Value (*less* the Cash Redemption Fee, if applicable) and/or the Units, as applicable in each case, within eighty (80) business days of the Receipt Date. For the avoidance of doubt and without limiting the foregoing, the parties hereto acknowledge and agree that (A) the Option Holder shall be authorized to exercise its sole and absolute discretion as to the

particular mechanics employed to operationalize the FMV Option under Section 10.1, and (B) the Option Holder may require that the Trust transfer all or some of the Trust Estate directly to the Option Holder in order to exercise the FMV Option under Section 10.1.

Section 10.4 Determination of Fair Market Value of Interests in the Trust. For the purposes of the FMV Option, the fair market value of a Beneficial Owner's Interests issued by the Trust to be acquired by the Option Holder shall be determined by multiplying: (i) the Percentage Share represented by the interests in the Trust to be acquired by the Option Holder by (ii) the fair market value of the Trust Estate, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion. Such appraisal shall have been completed within sixty (60) days of the date the FMV Option is exercised. No discounts for lack of liquidity or minority interests shall be considered in determining the fair market value of such interests in the Trust.

Section 10.5 Continued Existence of Trust. Notwithstanding anything to the contrary in this Trust Agreement, the Trust shall survive the exercise of the FMV Option by the Option Holder; *provided*, *however*, that following the exercise of the FMV Option and the completion of the distributions under Section 10.3, the Trust shall take any and all necessary actions to cease to be treated as a fixed investment trust under Regulations Section 301.7701-4(c) and instead be treated as a "disregarded entity" under Regulations Section 301.7701-3 for federal income tax purposes or as otherwise determined by the Option Holder.

ARTICLE 11
MISCELLANEOUS

Section 11.1 Limitations on Rights of Others. Nothing in this Trust Agreement, whether express or implied, shall give to any Person other than the Depositor, the Trustees, the Manager, the Beneficial Owners, and the Trust any legal or equitable right, remedy or claim hereunder. Notwithstanding the preceding sentence, the Lender, its successors and assigns, shall be explicit third-party beneficiaries of this Trust Agreement with the right to independently enforce the terms of this Trust Agreement.

Section 11.2 Successors and Assigns. All covenants and agreements contained herein shall be binding upon and inure to the benefit of the Depositor, the Trustees, the Manager, the Beneficial Owners, the Trust, and their successors and assigns, all as herein provided. Any request, notice, direction, consent, waiver or other writing or action by any such Person shall bind its successors and assigns.

Section 11.3 Usage of Terms. With respect to all terms in this Trust Agreement, the singular includes the plural and the plural includes the singular; words importing any gender include the other gender; references to "writing" include printing, typing, lithography and other means of reproducing words in a visible form; references to agreements and other contractual instruments include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms and not prohibited by this Trust Agreement; references to Persons include their successors and permitted assigns; and the term "including" means including without limitation.

Section 11.4 Headings. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 11.5 Amendments. This Trust Agreement may be supplemented or amended by the Manager as determined solely by the Manager and will not require the consent of the Beneficial Owners; *provided*, *however*, that without the written consent of the Delaware Trustee in its or their individual capacity, no such supplement or amendment shall be enforceable against the Delaware Trustee in its or their individual capacity to the extent such supplement or amendment affects the Delaware Trustee in its or their individual capacity. During the period that the Loan is outstanding, this Trust Agreement may not be

supplemented or amended, and no term or provision hereof may be waived, discharged, or terminated without the prior written consent of the Lender.

Section 11.6 Notices. All notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof shall be in writing, and given by (i) overnight courier, or (ii) hand delivery and shall be deemed to have been duly given when received. Notices shall be provided to the parties at the addresses specified below.

If to the Depositor:	FREX DB Depositor Series I LLC 1345 Avenue of the Americas 46th Floor New York, New York 10105 Attention: David Hammerman (dhammerman@fortress.com); David Moson (dmoson@fortress.com); GC – Credit Funds (gccredit@fortress.com); Eli Edwards (eedwards@fortress.com); and Kerry Campelo (kcampelo@fortress.com)
If to the Delaware Trustee:	The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, New Castle County, Delaware 19801
If to the Independent Trustee:	The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, New Castle County, Delaware 19801 Attention: Steven P. Zimmer
If to the Manager:	FREX Manager Series I LLC 1345 Avenue of the Americas 46th Floor New York, New York 10105 Attention: David Hammerman (dhammerman@fortress.com); David Moson (dmoson@fortress.com); GC – Credit Funds (gccredit@fortress.com); Eli Edwards (eedwards@fortress.com); and Kerry Campelo (kcampelo@fortress.com)
If to a Beneficial Owner:	At such Person's address as specified in the most recent Ownership Records.

From time to time the Depositor, Trustees, or Manager may designate a new address for purposes of notice hereunder by notice to the others, and any Beneficial Owner may designate a new address for purposes of notice hereunder by notice to the Manager.

Section 11.7 Governing Law; Venue; Jury Trial Waiver; Attorneys' Fees, Costs and Expenses. This Trust Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Delaware (without regard to conflict of law principles). The laws of the state of Delaware pertaining to trusts (other than the Statutory Trust Act) shall not apply to this Trust Agreement, except to the extent otherwise required by the Statutory Trust Act. Any legal proceeding concerning interpretation or enforcement of any provision of this Trust Agreement shall be venued exclusively in New York County, New York. Beneficial Owners hereby waive trial by jury in any action, proceeding or counterclaim brought

by any of the parties hereto on any matters whatsoever arising out of or in any way connected with this Trust Agreement, or in connection with any emergency statutory or any other statutory remedy. Should a Beneficial Owner(s) threaten to bring or bring any legal proceeding, claim or counterclaim arising out of, or relating to, the Trust Agreement, as may be amended from time to time, against the Trust, the Depositor, the Manager, and / or the Trustees, such Beneficial Owner(s) shall pay all of the attorneys' fees, costs and litigation expenses incurred by the Trust, the Depositor, the Manager, and / or the Trustees in investigating, defending, and/or otherwise responding to such threatened or actual legal proceeding, claim or counterclaim, unless it is determined by a court of competent jurisdiction that said Beneficial Owner(s) prevailed on such claim or counterclaim.

Section 11.8 Counterparts. This Trust Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 11.9 Severability. Any provision of this Trust Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, each of the parties hereby waives any provision of applicable law that renders any such provision prohibited or unenforceable in any respect.

Section 11.10 Signature of Beneficial Owners. Each Investor will execute the Signature Page for assignee or transferee Beneficial Owners of the Trust in substantially the form set forth in **Exhibit E** hereto (the "**Signature Page**") in connection with their acquisition of a Class 1 Beneficial Ownership Certificate. By executing the Signature Page, each Investor hereby acknowledges and agrees to be bound by the terms of the limited liability company agreement contemplated under Section 9.2 and in the form substantially similar to that set forth in **Exhibit F** hereto (the "**LLC Agreement**") when and if such limited liability company is formed in accordance with the LLC Agreement. In addition, in light of their agreement to this Section 11.10, each Investor hereby acknowledges and agrees that their signature to the LLC Agreement will not be required as of the Transfer Date (as defined in the LLC Agreement).

[Signature Page to Follow]

IN WITNESS WHEREOF, each of the parties has caused this Trust Agreement to be duly executed as of the day and year first above written.

DELAWARE TRUSTEE:

THE CORPORATION TRUST COMPANY

By: _____
Name: _____
Title: _____

DEPOSITOR:

FREX DB DEPOSITOR SERIES I LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

MANAGER AND SIGNATORY TRUSTEE:

FREX MANAGER SERIES I LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

CLASS 1 BENEFICIAL OWNERS:

All Class 1 Beneficial Owners now and hereafter admitted pursuant to powers of attorney now and hereafter granted to the Manager and Signatory Trustee

By: FREX Manager Series I LLC, a Delaware limited liability company.

By: _____
Name: David Hammerman
Title: Authorized Signatory

INDEPENDENT TRUSTEE:

STEVEN P. ZIMMER

_____

IN WITNESS WHEREOF, each of the parties has caused this Trust Agreement to be duly executed as of the day and year first above written.

DELAWARE TRUSTEE:

THE CORPORATION TRUST COMPANY

By: _____
Name: Jennifer A. Schwartz
Title: Asst. Vice President

DEPOSITOR:

FREX DB DEPOSITOR SERIES I LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

MANAGER AND SIGNATORY TRUSTEE:

FREX MANAGER SERIES I LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

CLASS 1 BENEFICIAL OWNERS:

All Class 1 Beneficial Owners now and hereafter admitted pursuant to powers of attorney now and hereafter granted to the Manager and Signatory Trustee

By: FREX Manager Series I LLC, a Delaware limited liability company.

By: _____
Name: _____
Title: _____

INDEPENDENT TRUSTEE:

STEVEN P. ZIMMER

_____

EXHIBIT A
Real Estate

PARCEL 1:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GRANVILLE CORPORATION, COUNTY OF MONONGALIA, STATE OF WEST VIRGINIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 8, OF THE UNIVERSITY TOWN CENTRE DEVELOPMENT, A MAP OR PLAT OF SAID DEVELOPMENT, BEING OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, IN PLAT CABINET 3, ENVELOPE 100-B, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1308/PG 21), TAX MAP 8, PARCEL 1.11; THENCE WITH SAID TRACT 8, NORTH 36°23'54" WEST 452.83 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 38°11'46" WEST 66.37 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET) IN THE SOUTHERN LINE AND AT THE END OF MOUNTAINEER DRIVE, STANDING AS A CORNER TO SAID TRACT 8; THENCE LEAVING SAID TRACT 8 AND WITH THE END OF SAID MOUNTAINEER DRIVE FOR A PARTIAL LINE AND CONTINUING WITH TRACT 9 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 468), TAX MAP 8, PARCEL 1.12, NORTH 38°11'46" WEST 176.05 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 67°32'28" WEST 52.51 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER MON-VIEW DEVELOPMENT (DB 1254/PG 452), TAX MAP 8, PARCEL 1 AND SAID TRACT 9; THENCE LEAVING SAID TRACT 9 AND WITH SAID MON-VIEW DEVELOPMENT, NORTH 46°32'47" WEST 571.68 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°09'33" WEST 52.59 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING IN THE LINE OF OTHER LANDS OF SAID MON-VIEW DEVELOPMENT, LLC (DB 1306/PG 176), TAX MAP 8, PART OF PARCEL 1 AND AS A CORNER TO NOW OR FORMER TOWN OF GRANVILLE (DB 1302/PG 517), TAX MAP 8, PARCEL 1.2; THENCE LEAVING SAID MON-VIEW DEVELOPMENT AND WITH SAID TOWN OF GRANVILLE, NORTH 53°31'50" EAST 38.07 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 17°30'21" EAST 169.96 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 08°56'15" WEST 112.73 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER BOJAN, LLC (DB 1177/PG 232), TAX MAP 15, PART OF PARCEL 18 AND SAID TOWN OF GRANVILLE; THENCE LEAVING SAID TOWN OF GRANVILLE AND WITH SAID BOJAN NORTH 79°25'10" EAST 429.46 FEET TO A 5/8-INCH CAPPED IRON ROD (FOUND), STANDING AS A CORNER TO NOW OR FORMER STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL II, (DB 434/PG 1), TAX MAP 15, PARCEL 20; THENCE LEAVING SAID BOJAN AND WITH SAID STATE ROAD COMMISSION NORTH 79°51'27" EAST 962.61 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 21°47'47" EAST 270.90 FEET TO A POINT, STANDING AS A CORNER TO LOT 26 OF HACKNEY ADDITION TO RANDALL, NOW OR FORMERLY OWNED BY SAID STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL I, (DB 434/PG 1), TAX MAP 15B, PARCEL 83; THENCE WITH LOTS OF SAID HACKNEY ADDITION (STATE ROAD COMMISSION) SOUTH 82°06'32" EAST 491.91 FEET TO A POINT, STANDING AS A CORNER TO LOTS 23 AND 22 OF HACKNEY ADDITION; THENCE WITH SAID LOTS 23 AND 22 NORTH 07°55'19" EAST 381.28 FEET TO A POINT IN THE SOUTHERN RIGHT OF WAY LINE OF US ROUTE 19 AND WEST VIRGINIA ROUTE 7, STANDING AS A CORNER TO SAID STATE ROAD COMMISSION; THENCE LEAVING SAID STATE ROAD COMMISSION AND WITH RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND LOT 22 OF SAID HACKNEY ADDITION SOUTH 74°20'40" EAST 162.38 FEET TO A POINT IN THE WESTERN LINE OF THE NORFOLK AND SOUTHERN RAILROAD (FORMERLY THE MONONGAHELA

RAILROAD COMPANY), 60 FEET RIGHT OF AND RIGHT ANGLE TO CENTERLINE OF SAID NORFOLK AND SOUTHERN RAILROAD; THENCE LEAVING RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND WITH SAID NORFOLK AND SOUTHERN RAILROAD, A LINE 60 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 599.78 FEET TO A POINT; THENCE SOUTH 86°33'10" EAST 25.00 FEET TO A POINT 35 FEET FROM CENTERLINE; THENCE WITH A LINE 35 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 565.00 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4442.46 FEET, A LINE 35 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 839.1 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 10°49'49" TO A POINT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 01°58'05" EAST 838.48 FEET; THENCE SOUTH 71°39'50" WEST 15.28 FEET TO A POINT 50 FEET FROM SAID CENTERLINE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4457.46 FEET, A LINE 50 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 437.99 FEET TO A POINT, STANDING AS A CORNER TO NOW OR FORMER CONSOLIDATION COAL COMPANY (DB 653/PG 403), TAX MAP 9, PARCEL 2, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 10°14'08" EAST 437.83 FEET; THENCE LEAVING SAID NORFOLK AND SOUTHERN RAILROAD AND WITH SAID CONSOLIDATION COAL COMPANY SOUTH 85°25'00" WEST 184.03 FEET TO A POINT; THENCE SOUTH 02°42'13" WEST 585.63 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°21'02" WEST 198.97 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 54°45'19" WEST 640.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°54'18" WEST 327.39 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 5 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY TARGET CORPORATION (DB 1254/PG 546), TAX MAP 8, PARCEL 1.5 AND SAID CONSOLIDATION COAL COMPANY; THENCE LEAVING SAID CONSOLIDATION COAL COMPANY AND WITH SAID TRACT 5 NORTH 17°25'35" WEST 68.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 47°01'17" WEST 138.35 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 62°12'34" WEST 113.66 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 6, OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 676), TAX MAP 8, PARCEL 1.7 AND SAID TRACT 5; THENCE LEAVING SAID TRACT 5 AND WITH SAID TRACT 6 NORTH 62°12'34" WEST 280.90 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°12'16" WEST 36.47 FEET TO A POINT; THENCE NORTH 12°33'18" WEST 89.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 24°32'26" WEST 83.15 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 33°30'03" WEST 60.70 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO SAID TRACT 8 OF SAID UNIVERSITY TOWN CENTRE AND SAID TRACT 6; THENCE LEAVING SAID TRACT 6 AND WITH SAID TRACT 8 NORTH 68°57'41" EAST 143.76 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 40°29'27" EAST 163.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 69°12'18" EAST 246.34 FEET TO THE PLACE OF BEGINNING, CONTAINING 93.61 ACRES, MORE OR LESS, AS SURVEYED IN JUNE THROUGH AUGUST, 2007, AND UPDATED OCTOBER, 2012, BY TRIAD ENGINEERING, INC., OF MORGANTOWN, WEST VIRGINIA, AND SHOWN ON SHEET C-2 OF THIS ALTA/ACSM LAND TITLE SURVEY FOR FAIRFIELD GRANVILLE EXCHANGE, LLC. THE MERIDIAN FOR ALL BEARINGS IN THIS DESCRIPTION IS BASED ON MON - VIEW DEVELOPMENT "PROJECT NORTH".

PARCEL 2: [EASEMENT]

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO TIE ONTO OR CONNECT TO THE STORM WATER DRAINAGE SYSTEM, EXISTING AS OF JUNE 5, 2003, AND LOCATED WITHIN THE LANDS ACQUIRED BY BOJAN, LLC BY DEED DATED OCTOBER 15, 1998 AND RECORDED IN THE

CLERK'S OFFICE OF MONONGALIA COUNTY, WEST VIRGINIA, IN DEED BOOK 1177, PAGE 232, TOGETHER WITH THE RIGHT TO DISCHARGE INTO SAID STORM WATER SYSTEM, AS MORE PARTICULARLY SET FORTH WITHIN THAT CERTAIN DEED DATED JUNE 5, 2003, BY AND BETWEEN BOJAN, LLC AND MON-VIEW, LLC, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1254, PAGE 445, AND AS REAFFIRMED WITHIN THAT CERTAIN INTERPARTIES AGREEMENT DATED JUNE 5, 2003 AND RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 1254, PAGE 496.

PARCEL 3: [EASEMENT]

TOGETHER WITH AN EASEMENT FOR THE PURPOSES OF (I) DESIGNING, CONSTRUCTING, OPERATING AND MAINTAINING A DRAINAGE CHANNEL FOR THE CONVEYANCE OF SURFACE WATER AND STORM WATER RUNOFF FROM PARCEL 1 ACROSS ADJACENT LAND TO A COLLECTION AND TREATMENT POND AND (II) THE DISCHARGE OF SURFACE WATER AND STORM WATER INTO SAID TREATMENT POND, AS MORE PARTICULARLY DESCRIBED WITHIN THAT CERTAIN DRAINAGE EASEMENT DATED MAY 1, 2008, BY AND BETWEEN MON-VIEW, LLC AND FAIRFIELD GRANVILLE EXCHANGE, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1366, PAGE 125. BEING THE SAME REAL ESTATE CONVEYED TO CPI-GREP DOMAIN OWNER, L.L.C. FROM DTC BORROWER, LLC BY DEED DATED JULY 2, 2018, OF RECORD IN DEED BOOK 1636, AT PAGE 48.

NOTE: THE ABOVE APPURTENANT PARCEL 2: [EASEMENT] AND PARCEL 3: [EASEMENT] ARE CONTIGUOUS TO PARCEL 1.

EXHIBIT B-1
Form of Class 1 Beneficial Ownership Certificate

THIS CLASS 1 BENEFICIAL OWNERSHIP CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**") OR WITH ANY SECURITIES REGULATORY AUTHORITY IN ANY JURISDICTION. THIS CLASS 1 BENEFICIAL OWNERSHIP CERTIFICATE MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED, OTHER THAN PURSUANT TO AN EXEMPTION FROM OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE SECURITIES LAWS. TRANSFER OF A BENEFICIAL INTEREST IN THE TRUST, OR OF ANY RIGHT, TITLE OR INTEREST THEREIN, SHALL OCCUR IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE TRUST AGREEMENT AND ONLY UPON AND BY VIRTUE OF THE ENTRY OF SUCH TRANSFER IN THE OWNERSHIP RECORDS OF THE TRUST. THIS CLASS 1 BENEFICIAL OWNERSHIP CERTIFICATE IS NON-TRANSFERABLE AND MAY NOT BE NEGOTIATED, ENDORSED OR OTHERWISE TRANSFERRED TO A HOLDER.

FREX DB SERIES I DST
CLASS 1 BENEFICIAL OWNERSHIP CERTIFICATE

No. _____

FREX DB Series I DST, a statutory trust organized under the laws of the State of Delaware (the "**Issuer**"), certifies that _____ is the owner of a Class 1 Beneficial Interest equal to _____% (_____ percent) of the interest in the Issuer, issued pursuant to the Amended and Restated Trust Agreement dated as of March 11, 2026 (as may be amended or supplemented from time to time, the "**Trust Agreement**") by and among FREX DB Depositor Series I LLC, as Depositor, FREX Manager Series I LLC, as manager (the "**Manager**") and Signatory Trustee, The Corporation Trust Company, as co-trustee (the "**Delaware Trustee**"), and Steven P. Zimmer as independent trustee (the "**Independent Trustee**"), and those additional parties admitted as Class 1 Beneficial Owners.

All capitalized terms used in this Class 1 Beneficial Ownership Certificate and not defined herein shall have the meanings assigned to such terms in the Trust Agreement. Reference is made to the Trust Agreement and any agreements supplemental thereto for a statement of the respective rights and obligations thereunder of the Depositor, the Manager, the Delaware Trustee, and the Beneficial Owners. This Class 1 Beneficial Ownership Certificate is subject to all terms of the Trust Agreement.

This Class 1 Beneficial Ownership Certificate shall in all respects be governed by, and construed in accordance with, the laws of the State of Delaware.

By accepting this Class 1 Beneficial Ownership Certificate, the holder hereof hereby acknowledges and agrees that in its capacity as a Beneficial Owner it lacks the ability to (i) seek a partition of the Trust's assets, (ii) file a voluntary bankruptcy petition on behalf of the Trust, or (iii) institute against, or join any other Person in instituting against, the Trust, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings under any applicable insolvency law.

IN WITNESS WHEREOF, the Issuer has caused this Class 1 Beneficial Ownership Certificate to be signed manually by the Manager in accordance with the terms of the Trust Agreement.

Date: _____

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: _____
Title: _____

EXHIBIT B-2
Form of Class 2 Beneficial Ownership Certificate

THIS CLASS 2 BENEFICIAL OWNERSHIP CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**") OR WITH ANY SECURITIES REGULATORY AUTHORITY IN ANY JURISDICTION. THIS CLASS 2 BENEFICIAL OWNERSHIP CERTIFICATE MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED, OTHER THAN PURSUANT TO AN EXEMPTION FROM OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE SECURITIES LAWS. TRANSFER OF A BENEFICIAL INTEREST IN THE TRUST, OR OF ANY RIGHT, TITLE OR INTEREST THEREIN, SHALL OCCUR ONLY UPON AND BY VIRTUE OF THE ENTRY OF SUCH TRANSFER IN THE OWNERSHIP RECORDS OF THE TRUST. THIS CLASS 2 BENEFICIAL OWNERSHIP CERTIFICATE IS NON-TRANSFERABLE AND MAY NOT BE NEGOTIATED, ENDORSED OR OTHERWISE TRANSFERRED TO A HOLDER.

FREX DB SERIES I DST
CLASS 2 BENEFICIAL OWNERSHIP CERTIFICATE

No. _____

FREX DB Series I DST, a statutory trust organized under the laws of the State of Delaware (the "**Issuer**"), certifies that _____ is the owner of a Class 2 Beneficial Interest equal to _____% (_____ percent) of the interest in the Issuer, issued pursuant to the Amended and Restated Trust Agreement dated as of March 11, 2026 (as may be amended or supplemented from time to time, the "**Trust Agreement**") by and among FREX DB Depositor Series I LLC, as Depositor, FREX Manager Series I LLC, as manager (the "**Manager**") and Signatory Trustee, The Corporation Trust Company, as co-trustee (the "**Delaware Trustee**"), and Steven P. Zimmer as independent trustee (the "**Independent Trustee**") and those additional parties admitted as Class 1 Beneficial Owners.

All capitalized terms used in this Class 2 Beneficial Ownership Certificate and not defined herein shall have the meanings assigned to such terms in the Trust Agreement. Reference is made to the Trust Agreement and any agreements supplemental thereto for a statement of the respective rights and obligations thereunder of the Depositor, the Manager, the Delaware Trustee, and the Beneficial Owners. This Class 2 Beneficial Ownership Certificate is subject to all terms of the Trust Agreement. Any transferee or assignee of all or any portion of the Class 2 Beneficial Interests represented by this Class 2 Beneficial Ownership Certificate is subject to, and agrees to be bound and abide by the terms of the Trust Agreement.

This Class 2 Beneficial Ownership Certificate shall in all respects be governed by, and construed in accordance with, the laws of the State of Delaware.

By accepting this Class 2 Beneficial Ownership Certificate, the holder hereof hereby acknowledges and agrees that in its capacity as a Beneficial Owner it lacks the ability to (i) seek a partition of the Trust's assets, (ii) file a voluntary bankruptcy petition on behalf of the Trust, or (iii) institute against, or join any other Person in instituting against, the Trust, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings under any applicable insolvency law.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Issuer has caused this Class 2 Beneficial Ownership Certificate to be signed manually by the Manager in accordance with the terms of the Trust Agreement.

Date: _____

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: _____
Title: _____

ENDORSEMENT

FOR VALUE RECEIVED, _____, the registered holder, hereby assigns, transfers, conveys, and delivers unto _____ the Class 2 Beneficial Interests in FREX DB Series I DST, a Delaware statutory trust (the "**Trust**"), standing in its name on the books of said Trust and represented by Class 2 Beneficial Ownership Certificate, Certificate Number 1 and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Class 2 Beneficial Interest on the books of the Trust with full power of substitution in the premises.

Date: _____

_____

By: _____
Name: _____
Title: _____

EXHIBIT C
Certificate of Trust
of
FREX DB Series I DST

Delaware

The First State

I, CHARUNI PATIBANDA-SANCHEZ, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF STATUTORY TRUST REGISTRATION OF "FREX DB SERIES I DST", FILED IN THIS OFFICE ON THE SIXTEENTH DAY OF DECEMBER, A.D. 2025, AT 12:16 O`CLOCK P.M.

C. B. Sanchez

Charuni Patibanda-Sanchez, Secretary of State

10439839 8100
SR# 20254889803

Authentication: 205635437
Date: 12-16-25

You may verify this certificate online at corp.delaware.gov/authver.shtml

CERTIFICATE OF TRUST
OF
FREX DB SERIES I DST

This Certificate of Trust of FREX DB Series I DST (the "**Trust**") is being duly executed and filed by the undersigned to form a statutory trust under the Delaware Statutory Trust Act (Title 12 of the Delaware Code, Section 3801 et seq., the "**Delaware Act**") and sets forth the following:

1. The name of the trust is FREX DB SERIES I DST.

2. The name and business address of the Delaware Trustee in the State of Delaware is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

3. This Certificate of Trust shall be effective as of the date of filing by the Delaware Secretary of State.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Trust in accordance with Section 3811 of the Delaware Act.

THE CORPORATION TRUST COMPANY,
as Delaware Trustee

By: _____
Name: Jennifer A. Schwartz
Title: Asst. Vice President

FREX MANAGER SERIES I LLC, as Signatory Trustee

By: _____
Name: Dustin Schiavi
Title: Authorized Signatory

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:16 PM 12/16/2025
FILED 12:16 PM 12/16/2025
SR 20254889803 - File Number 10439839

EXHIBIT D
Ownership Records
for
FREX DB Series I DST

LAST REVISED _____ ____, 20____.

Name:	**Mailing Address:**	**Percentage (%) Beneficial Interest:**

I hereby certify that the foregoing Ownership Records are complete and accurate as of the date set forth above.

FREX MANAGER SERIES I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: _____
Title: _____

EXHIBIT E
Agreement of Assignee or Transferee Beneficial Owner
of
FREX DB Series I DST

The undersigned has received and reviewed, with assistance from such legal, tax, investment, and other advisors and skilled persons as the undersigned has deemed appropriate, the Amended and Restated Trust Agreement of FREX DB Series I DST (the "**Trust**"), dated as of March 11, 2026 (the "**Trust Agreement**"), by and among FREX DB Depositor Series I LLC, as Depositor, FREX Manager Series I LLC, as Manager and Signatory Trustee, The Corporation Trust Company, as co-trustee (the "**Delaware Trustee**"), and Steven P. Zimmer as independent trustee (the "**Independent Trustee**") and hereby covenants and agrees to be bound by the Trust Agreement as a Class 1 Beneficial Owner under the Trust. All capitalized terms used herein, and not defined herein shall have the meanings given to such terms in the Trust Agreement.

In connection with the purchase of the Class 1 Beneficial Interest, the undersigned hereby makes the following representations, warranties, covenants, acknowledgments, agreements, and understandings to and in favor of the Trust, the Depositor, the Manager, and the Trustees:

1.1 Acknowledges (i) that the Class 1 Beneficial Interest being acquired by the undersigned is (A) pursuant to the contract of sale or other written agreement attached hereto as **Exhibit A** and that there are no side letters or other undisclosed understandings or agreements between buyer and seller (hereinafter the "**Offer**") and (B) the Offer is subject to the prior written consent of the Manager, as more particularly set forth in Section 6.4 of the Trust Agreement and (ii) that the failure of the Manager to consent could (A) void the undersigned's acquisition of the subject Class 1 Beneficial Interest or (B) otherwise have an adverse effect on the undersigned's right, title and interest in and to the subject Class 1 Beneficial Interest.

1.2 Represents and warrants that the undersigned: (i) understands and is aware that there are substantial uncertainties regarding the treatment of the undersigned's Class 1 Beneficial Interest as real estate for federal income tax purposes; (ii) fully understands that there is significant risk that the undersigned's Class 1 Beneficial Interest will not be treated as real estate for federal income tax purposes; (iii) has independently obtained advice from its legal counsel and/or accountant regarding any tax-deferred exchange under Code Section 1031, including, without limitation, whether the acquisition of the undersigned's Class 1 Beneficial Interest may qualify as part of a tax-deferred exchange, and the undersigned is relying on such advice and not on the opinion of counsel issued to the Trust or upon any statements in the Memorandum (as defined below) regarding the tax treatment of the Class 1 Beneficial Interests; (iv) is aware that the Internal Revenue Service ("**IRS**") has issued Revenue Ruling 2004-86 (the "**Revenue Ruling**") specifically addressing Delaware statutory trusts, the Revenue Ruling is merely guidance and is not a "safe-harbor" for taxpayers or sponsors, and, without the issuance of a Private Letter Ruling on a specific offering, there is no assurance that the undersigned's Class 1 Beneficial Interest will not be treated as a partnership interest for federal income tax purposes; (v) understands that the Trust has not obtained a ruling from the IRS that the undersigned's Class 1 Beneficial Interest will be treated as an undivided interest in real estate as opposed to an interest in a partnership; (vi) understands that the tax consequences of an investment in the undersigned's Class 1 Beneficial Interest, especially the treatment of the transaction described herein under Code Section 1031 and the related "1031 Exchange" rules, are complex and vary with the facts and circumstances of each individual purchaser; (vii) understands that, notwithstanding the opinion of counsel issued to the Trust states that a purchaser's Class 1 Beneficial Interest "should" be considered a real property interest and not a partnership interest for federal income tax purposes, no assurance can be given that the IRS will agree with this opinion; and (viii) shall, for federal income tax purposes, report the purchase of the Class 1 Beneficial Interest by the undersigned as a purchase by the undersigned of a direct ownership interest in the Real Estate.

1.3 Acknowledges that the undersigned (i) has received from the undersigned's transferor or assignor a courtesy copy of the private offering memorandum regarding the sale of the Class 1 Beneficial Interests by the Trust (together with any addendums or supplements thereto, the "**Memorandum**") and the Trust Agreement and (ii) is familiar with and understands each of the foregoing including the "Risk Factors" set forth in the Memorandum.

1.4 Represents and warrants that the undersigned, in determining to acquire the Class 1 Beneficial Interest, has relied solely upon the advice of the undersigned's legal counsel and accountants or other financial advisors with respect to the tax and other consequences involved in acquiring the Class 1 Beneficial Interest and that none of Fortress Real Estate Exchange LLC (the "**Sponsor**"), the Trust, the Trustees, the Manager, or the Depositor (or any of their respective owners, officers, Affiliates, representatives, professionals or agents) has made any representation to the undersigned regarding the Class 1 Beneficial Interest or the assets or liabilities of the Trust or the financial viability of the Trust or an investment in the Class 1 Beneficial Interests.

1.5 Acknowledges that the Class 1 Beneficial Interest being acquired will be governed by the terms and conditions of the Trust Agreement, and under certain circumstances by the limited liability company operating agreement contemplated under Section 9.2 of the Trust Agreement and attached as **Exhibit F** thereto, both of which the undersigned accepts and by which the undersigned agrees by execution hereof to be legally bound notwithstanding that his or her signature will not be required on either agreement.

1.6 Represents and warrants that the undersigned either (i) is an accredited investor, or (ii) is acquiring the Class 1 Beneficial Interest in a fiduciary capacity for a person meeting such condition.

1.7 Represents and warrants that the Class 1 Beneficial Interest being acquired will be acquired for the undersigned's own account without a view to public distribution or resale and that the undersigned has no contract, undertaking, agreement or arrangement to sell or otherwise transfer or dispose of the Class 1 Beneficial Interest or any portion thereof to any other Person.

1.8 Represents and warrants that the undersigned (i) can bear the economic risk of the purchase of the Class 1 Beneficial Interest including the total loss of the undersigned's investment, (ii) has such knowledge and experience in business and financial matters, including the analysis of or participation in offerings of privately issued securities, as to be capable of evaluating the merits and risks of purchasing Class 1 Beneficial Interests, and (iii) if an individual, is at least 18 years of age.

1.9 Understands that the Class 1 Beneficial Interest has not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or the securities laws of any state and are subject to restrictions on transfer as described in the Memorandum, which restrictions are in addition to certain other restrictions set forth in the Trust Agreement.

1.10 Understands that a legend will be placed on the Class 1 Beneficial Ownership Certificate with respect to restrictions on distribution, transfer, resale, assignment or subdivision of the Class 1 Beneficial Interest imposed by applicable federal and state securities laws.

1.11 Agrees that the undersigned will not sell or otherwise transfer or dispose of any Class 1 Beneficial Interest or any portion thereof unless (i) such Class 1 Beneficial Interest is registered under the Securities Act and any applicable state securities laws or, if required by the Trust (through the Manager), the undersigned obtains an opinion of counsel that is satisfactory to the Trust that such Class 1 Beneficial Interest may be sold in reliance on an exemption from such registration requirements, and (ii) the transfer is otherwise made in accordance with the Trust Agreement.

1.12 Agrees that the undersigned will not sell or transfer a Class 1 Beneficial Interest or any portion thereof to (i) an employee benefit plan within the meaning of Section 3(3) of the Employee

Retirement Income Security Act of 1974 ("**ERISA**") that is subject to the fiduciary responsibility provisions of Title I of ERISA (a "**plan**"), or a plan within the meaning of Code Section 4975(e)(1) that is subject to Code Section 4975 (also, a "**plan**"), including a qualified plan (any pension, profit sharing or stock bonus plan that is qualified under Code Section 401(a)) or an individual retirement account; (iii) any Person that is directly or indirectly acquiring a Class 1 Beneficial Interest on behalf of, as investment manager of, as fiduciary of, as trustee of, or with assets of a plan (including any insurance company using assets in its general or separate account that may constitute assets of a plan); (iii) a charitable remainder trust; (iv) any other tax-exempt entity; or (v) a foreign Person.

1.13 Understands that (i) the Trust has no obligation or intention to register any Class 1 Beneficial Interest for resale or transfer under the Securities Act or any state securities laws or to take any action (including the filing of reports or the publication of information as required by Rule 144 under the Securities Act) which would make available any exemption from the registration requirements of any such laws, and (ii) the undersigned therefore may be precluded from selling or otherwise transferring or disposing of any Class 1 Beneficial Interest or any portion thereof for an indefinite period of time or at any particular time.

1.14 Understands that no federal or state agency including the Securities and Exchange Commission, or the securities commission or authorities of any other state has approved or disapproved the Class 1 Beneficial Interests, passed upon or endorsed the merits of the Trust's offering of Class 1 Beneficial Interests or the accuracy or adequacy of the Memorandum, or made any finding or determination as to the fairness of the Interest for public investment.

1.15 Represents, warrants and agrees that, if the undersigned is acquiring the Class 1 Beneficial Interest in a fiduciary capacity, (i) the above representations, warranties, agreements, acknowledgments and understandings shall be deemed to have been made on behalf of the Person or Persons for whose benefit such Class 1 Beneficial Interest is being acquired, (ii) the name of such Person or Persons is indicated below the undersigned's name, and (iii) such further information as the Manager deems appropriate shall be furnished regarding such Person or Persons.

1.16 Acknowledges and agrees that counsel, including special tax counsel, to the Trust, the Depositor, the Manager and their Affiliates do not represent, and shall not be deemed under applicable codes of professional responsibility, to have represented or to be representing, any transferee or assignee, including the undersigned, in any way in connection with the transfer or assignment of a Class 1 Beneficial Interest.

1.17 Agrees to indemnify, defend and hold harmless the Sponsor, the Trust, the Trustees, the Depositor, the Manager, and each of their members, managers, shareholders, officers, directors, employees, consultants, Affiliates and advisors (collectively, the "**Indemnified Parties**") of and from any and all damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees and costs) that they may incur by reason of the untruth or inaccuracy of any of the representations, warranties, covenants or agreements contained herein or in any other document transferee or assignee has furnished to any of the foregoing in connection with this transaction. In addition, if any person shall assert a claim to a finder's fee or real estate brokerage commission on account of alleged employment as a finder or real estate broker through or under the undersigned in connection with the undersigned's acquisition of the Class 1 Beneficial Interest, the undersigned shall indemnify and hold the Indemnified Parties harmless from and against any such claim. This indemnification includes, but is not limited to, any damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees and costs) incurred by the Indemnified Parties defending against any alleged violation of federal or state securities laws, which is based upon or related to any untruth or inaccuracy of any of the representations, warranties or agreements contained herein or in any other documents the undersigned has furnished to any of the foregoing in connection with this transaction, and

against any failure of the transaction to satisfy any Code Section 1031 requirements in connection with the undersigned's exchange under such provisions.

1.18 Represents and warrants that neither the undersigned nor any Affiliate of the undersigned (i) is a Sanctioned Person (defined below), (ii) has more than 15.0% of its assets in Sanctioned Countries (defined below), or (iii) derives more than 15.0% of its operating income from investments in, or transactions with Sanctioned Persons or Sanctioned Countries. For purposes of the foregoing, a "**Sanctioned Person**" shall mean (y) a Person named on the list of "specially designated nationals" or "blocked persons" maintained by the U.S. Office of Foreign Assets Control ("**OFAC**") at *http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx*, or as otherwise published from time to time, or (y) (1) an agency of the government of a Sanctioned Country, (2) an organization controlled by a Sanctioned Country, or (3) a person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC. A "**Sanctioned Country**" shall mean a country subject to a sanctions program identified on the list maintained by OFAC and available at *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx*, or as otherwise published from time to time.

1.19 Acknowledges that the Class 2 Beneficial Owner has certain rights under the Trust Agreement, as more particularly set forth in the Trust Agreement.

[Signature Page to Follow]

The representations, warranties, acknowledgments, understandings and indemnities of transferee or assignee set forth herein shall survive the undersigned's acquisition of the Class 1 Beneficial Interest.

_____

Name: _____

EXHIBIT F
Form of Limited Liability Company Agreement
of
FREX DB Series I Springing LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (this "**Agreement**"), effective as of the Transfer Date, is entered into by and between FREX DB Series I DST, a Delaware statutory trust (the "**Trust**" or the "**Initial Member**"), as the Initial Member, and FREX DB Series I Springing Manager LLC, a Delaware limited liability company (the "**Manager**") and with the expectation of the admission of the parties listed on **Exhibit 2** attached hereto, as Members, pursuant to the Act on the following terms and conditions.

RECITALS

WHEREAS, an Affiliate of the Manager established the Trust to acquire and hold the Property, and sell Beneficial Interests in the Trust, pursuant to that certain Confidential Private Placement Memorandum (as supplemented or amended, the "**Memorandum**");

WHEREAS, the Members hold all of the Beneficial Interests in the Trust as the Beneficial Owners thereof and in the percentage amounts reflected on **Exhibit 2** attached hereto;

WHEREAS, the Manager or its predecessor in interest has determined that a distribution of Units to the Beneficial Owners in proportion to their Beneficial Interests should be made pursuant to Section 9.2 of the Amended and Restated Trust Agreement in order to preserve and protect the Trust Estate;

WHEREAS, in order to preserve and protect the Trust Estate, the Manager established the Company to hold the Trust Estate and issue the Units to the Trust in exchange for its contribution of the Trust Estate to the Company; and

WHEREAS, the Trust, as Initial Member, will distribute all of the Units held by the Trust to the Beneficial Owners (in the amounts reflected on **Exhibit 2** attached hereto) in proportion to their Beneficial Interests, and, in connection therewith, the Manager will admit the Beneficial Owners as Members of the Company and the interest of the Initial Member in the Company will be terminated.

NOW THEREFORE, the Members and the Manager agree that the Company shall be governed by and operated pursuant to the Act and the terms of this Agreement as hereinafter set forth.

1. Organization.

1.1 Limited Liability Company. On or prior to the Transfer Date, the Manager shall file a Certificate of Formation with the office of the Secretary of State of Delaware in accordance with and pursuant to the Act to form the Company.

1.2 Name and Place of Business. The name of the Company shall be "FREX DB Series I Springing LLC", and its principal place of business shall be at 1345 Avenue of the Americas, 46th Floor, New York, New York 10105. The Manager may change such name, change such place of business or establish additional places of business of the Company as the Manager may determine to be necessary or desirable.

1.3 Business and Purpose of the Company. The nature of the business and the purposes to be conducted and promoted by the Company are to engage solely in the following activities:

1.3.1 To own, hold, sell, assign, transfer, and otherwise deal with the Trust Estate.

1.3.2 To exercise all powers enumerated in the Act if necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

1.3.3 Notwithstanding anything to the contrary set forth in Sections 1.3.1 and 1.3.2 above, the Company will continue to (i) be organized solely for the purpose of owning the Property, (ii) not engage in any business unrelated to the ownership of the Property, and (iii) not have any assets other than those related to the Property.

1.4 Term. The term of the Company shall terminate as provided in Section 12 of this Agreement.

1.5 Required Filings. The Manager shall execute, acknowledge, file, record and/or publish such certificates and documents as may be required by this Agreement or by law in connection with the formation and operation of the Company.

1.6 Registered Office and Registered Agent. The Company's initial registered office and initial registered agent shall be as provided in the Certificate of Formation. The registered office and registered agent may be changed from time to time by the Manager by filing the address of the new registered office and/or the name of the new registered agent pursuant to the Act.

1.7 Certain Transactions. Any Member, or any Affiliate of a Member, or any shareholder, officer, director, employee, partner, member or any person owning an interest therein, may engage in or possess an interest in any other business or venture of any nature or description, whether or not competitive with the Company, including, but not limited to, the acquisition, syndication, ownership, financing, leasing, operation, maintenance, management, brokerage, construction and development of property similar to the Property and no Member, or any Affiliate of a Member, or any shareholder, officer, director, employee, partner, member or any person owning an interest therein shall have any interest in such other business or venture by reason of their interest in the Company.

2. Definitions. Definitions for this Agreement are set forth on **Exhibit 1** and are incorporated herein.

3. Capitalization and Financing.

3.1 Members' Capital Contributions.

3.1.1 Initial Member. The Trust, as the Initial Member, shall contribute the Trust Estate to the Company in exchange for all of the authorized Units in the Company. The Trust shall then distribute the Units to the Beneficial Owners in proportion to and in exchange for, and in termination of their Beneficial Interests in the Trust.

3.1.2 Units. The Company is hereby authorized to initially issue ten thousand (10,000) Units and to admit the Beneficial Owners as Members of the Company.

3.1.3 Liabilities of Members. Except as specifically provided in this Agreement, neither the Manager nor any Member shall be required to make any additional contributions to the Company and no Manager or Member shall be liable for the debts, liabilities, contracts, or any other obligations of the Company, nor shall the Manager or the Members be required to lend any funds to the Company.

3.2 Additional Voluntary Capital Contributions or Additional Units. The Manager may determine, in its sole and absolute discretion, that Capital Expenditures are in the best interest of the

Company. The Manager may request the Members to make additional voluntary capital contributions ("**Additional Voluntary Capital Contributions**") or may sell additional Units to new Members to enable the Company to make Capital Expenditures. In the event the Manager requests Additional Voluntary Capital Contributions, the Manager shall notify the Members in writing of the requested amount of such Additional Voluntary Capital Contribution, and a Member may, within fifteen (15) days of receiving such notice, elect (in writing by notice given to the Manager) to make the requested Additional Voluntary Capital Contributions. If the total specified amount by the Members wishing to make the Additional Voluntary Capital Contributions is less than the amount requested by the Manager, the Manager, in addition to providing the Members with a supplemental request for the remaining portion of the requested Additional Voluntary Capital Contribution, is hereby authorized to admit additional Members as necessary to insure that it receives the requested amount of Additional Voluntary Capital Contributions. To the extent that any Additional Voluntary Capital Contributions are made, whether by existing Members or upon the sale of Units to new Members, new Units shall be issued for those Additional Voluntary Capital Contributions on the basis of the fair market value as determined in the sole and absolute discretion of the Manager. In the event the Manager determines to sell additional Units, existing Members may participate on the same basis as new Members on a first-come first-serve basis. Fractional Units may be issued hereunder.

3.3 Manager Loans. Provided it does not violate or conflict with the Loan Documents, the Manager or its Affiliates may, but will have no obligation to, make loans to the Company to pay Company operating expenses if deemed necessary in Manager's reasonable business judgment. Any such loan shall bear interest at the actual cost of funds to the Manager and provide for the payment of principal and any accrued but unpaid interest in accordance with the terms of the promissory note evidencing such loan, but in no event later than dissolution of the Company.

4. Allocation of Income and Loss.

4.1 Allocation to the Manager and Members. For each fiscal year, the income and loss of the Company shall be allocated to the Members in proportion to their Units.

4.2 Allocation Among Units. Except as otherwise provided in this Agreement, all Distributions and allocations made to the Units shall be in the ratio of the number of Units held by each such Member on the date of such allocation (which allocation date shall be deemed to be the last day of each month) to the total outstanding Units as of such date, and, except as otherwise provided in this Agreement, without regard to the number of days during such month that the Units were held by each Member. In the event additional Members are admitted to the Company on different dates during any fiscal year, the income or loss allocated to Members for that fiscal year shall be apportioned among them in proportion to the number of Units each Member held from time to time during the fiscal year in accordance with Code Section 706.

4.3 Allocation of Company Items. Except as otherwise provided herein, whenever a proportionate part of income or loss is allocated to a Member, every item of income, gain, loss or deduction entering into the computation of such income or loss, and every item of credit or tax preference related to such allocation and applicable to the period during which such income or loss was realized, shall be allocated to a Member in the same proportion.

4.4 Assignment. In the event of the assignment of a Unit, the income and loss shall be apportioned as between the Member and his or her assignee based upon the number of months of their respective ownership during the year in which the assignment occurs, without regard to the results of the Company's operations during the period before or after such assignment. Distributions shall be made to the holder of record of the Units as of the date of the Distribution. An assignee that receives Units during the first fifteen (15) days of a month will receive any allocations relative to such month. An assignee that acquires Units on or after the sixteenth (16th) day of a month will be treated as acquiring his or her Units on the first day of the following month.

4.5 Consent of Members. The methods for allocating income and loss are hereby expressly consented to by each Member as a condition of becoming a Member.

4.6 Withholding Obligations.

4.6.1 If the Company is required (as determined in good faith by the Manager) to make a payment ("**Tax Payment**") with respect to any Member to discharge any legal obligation on the part of the Company or the Manager to make payments to any governmental authority with respect to any federal, foreign, state or local tax liability of such Member arising as a result of such Member's interest in the Company, then, notwithstanding any other provision of this Agreement to the contrary, the amount of any such Tax Payment shall be deemed to be a loan by the Company to such Member, which loan shall bear interest at the Prime Rate and be payable upon demand or by offset to any Distribution which otherwise would be made to such Member.

4.6.2 If and to the extent the Company or the Manager is required to make any Tax Payment with respect to any Member, or elects to make payment on any loan described in Section 4.6.1 by offset to a Distribution to a Member, either (i) such Member's proportionate share of such Distribution shall be reduced by the amount of such Tax Payment, or (ii) such Member shall pay to the Company prior to such Distribution an amount of cash equal to such Tax Payment. In the event a portion of a Distribution in kind is retained by the Company pursuant to clause (i) above, such retained property may, in the sole and absolute discretion of the Manager, either (A) be distributed to the other Members, or (B) be sold by the Company to generate the cash necessary to satisfy such Tax Payment. If the property is sold, then for purposes of income tax allocations only under this Agreement, any gain or loss from such sale or exchange shall be allocated to the Member to whom the Tax Payment relates. If the property is sold at a gain, and the Company is required to make any Tax Payment on such gain, the Member to whom the gain is allocated shall pay the Company prior to the due date of the Tax Payment an amount of cash equal to such Tax Payment.

4.6.3 The Manager shall be entitled to hold back any Distribution to any Member to the extent the Manager believes in good faith that a Tax Payment will be required with respect to such Member in the future and the Manager believes that there will not be sufficient subsequent Distributions to make such Tax Payment.

5. Distributions.

5.1 Cash from Operations. Except as provided in Section 5.2 and as otherwise provided in Section 12, Distributable Cash with respect to each calendar year shall be distributed to the Members in proportion to their Units.

5.2 Restrictions. The Company intends to make periodic distributions of substantially all cash determined by the Manager to be distributable, subject to the following: (i) Distributions may be restricted or suspended for periods when the Manager determines in its reasonable discretion that it is in the best interest of the Company; (ii) all Distributions are subject to the establishment and maintenance by Manager of reasonable reserves for payment of potential future Company obligations; and (iii) all Distributions shall be paid only to the extent that all currently due operating expenses have been paid or otherwise provided for and all amounts then due and payable under the Loan Documents have been paid or otherwise provided for.

6. Compensation to the Manager and its Affiliates.

6.1 Fees and Compensation to the Manager and its Affiliates. The Manager, its Affiliates, and Affiliates of officers of the Manager shall be entitled to receive an administrative fee and additional compensation for any additional service performed on behalf of the Company equal to the then prevailing

market rates for similar services performed in the area where the Property is located. In addition, the Manager shall be entitled to receive a financing fee equal to one percent (1.0%) of the gross proceeds from any financing or refinancing of the Property, and a disposition fee equal to two and one-half percent (2.5%) of the gross proceeds from any sale or disposition of the Property; *provided*, *however*, for the avoidance of doubt, no such disposition fee shall be charged in connection with the same transaction for which the Manager or its Affiliates receive a Cash Redemption Fee or the Members receive EE Units in lieu of cash; *provided*, *further*, that the Manager may reallow a portion of such disposition fee to one or more third parties in its sole and absolute discretion; *provided*, *finally*, that no amounts constituting a disposition fee hereunder shall be charged unless and until, at the time of the contemplated disposition of the Property, the Members of the Company have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Company. Any sales commissions or mortgages brokerage fees due to outside brokers shall not be paid from these fees. Notwithstanding the foregoing, any obligation for fees or expenses to be paid to the Manager herein shall not constitute a claim against the Company in the event its cash flow is insufficient to pay its obligations, nor shall it constitute a claim against any member of the Company.

6.2 Company Expenses.

6.2.1 Operating Expenses. Subject to the limitations set forth in Section 6.2.2, the Company shall pay directly, or reimburse the Manager as the case may be, for all of the costs and expenses of the Company's operations, including, without limitation, the following costs and expenses: (i) all Organization Expenses advanced or otherwise paid by the Manager; (ii) all costs of personnel employed by the Company and directly involved in the Company's business; (iii) all compensation due to the Manager or its Affiliates for reasonably documented services enumerated herein (including, but not limited to, ratable salary, bonus and fringe benefits of the personnel performing such services); (iv) all costs of personnel employed by the Manager or its Affiliates and directly involved in the business of the Company on an allocated basis consistently applied based on the how such amounts are accounted for by the Manager and its Affiliates; (v) all costs of borrowed money and taxes applicable to the Company; (vi) legal, accounting, audit, brokerage, and other fees; (vii) fees and expenses paid to independent contractors, mortgage bankers, real estate brokers, and other agents; (viii) all expenses incurred in connection with the maintenance of Company books and records, the preparation and dissemination of financial statements, tax returns or other information to the Members and the making of Distributions to the Members (including, but not limited to, fund administration, tax compliance and transfer agent costs and expenses, as applicable); (ix) expenses incurred in preparation and filing reports or other information with appropriate regulatory agencies; (x) expenses of insurance as required in connection with the business of the Company, other than any insurance insuring the Manager against losses for which it is not entitled to be indemnified under Section 7.7; (xi) costs incurred in connection with any litigation in which the Company may become involved, or any examination, investigation, or other proceedings conducted by any regulatory agency, including legal and accounting fees; (xii) the actual costs of goods and materials used by or for the Company; (xiii) the costs of services that could be performed directly for the Company by independent parties such as legal, accounting, secretarial or clerical, reporting, transfer agent, data processing and duplicating services but which are in fact performed by the Manager or its Affiliates, but not in excess of the lesser of: (a) the actual costs to the Manager or its Affiliates of providing such services; or (b) the amounts which the Company would otherwise be required to pay to independent parties for comparable services in the same geographic locale; (xiv) expenses of Company administration, accounting, documentation and reporting; (xv) expenses of revising, amending, modifying, or terminating this Agreement; (xvi) all travel expenses incurred in connection with the Company's business; and (xvii) all other costs and expenses incurred in connection with the business of the Company exclusive of those set forth in Section 6.2.2. All payments set forth herein shall be paid from any funds available after payment of, or other provision for, all other currently due operating expenses for the Property.

6.2.2 Manager Overhead. Except as set forth in this Section 6, the Manager and its Affiliates shall not be reimbursed for overhead expenses incurred in connection with the Company, including but not limited to rent, depreciation, utilities, capital equipment, or other administrative items not otherwise enumerated in Section 6.2.1.

7. Authority and Responsibilities of the Manager.

7.1 Management. The Manager shall manage the business and affairs of the Company. Except as otherwise set forth in this Agreement and the Certificate of Formation, and to the maximum extent permitted by law, the Manager shall have full and complete authority, power, and sole and absolute discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.

7.2 Number, Tenure and Qualifications. The Company shall have one Manager, which shall be FREX DB Series I Springing Manager LLC. The Manager shall remain the Manager until such Manager is removed, withdraws or resigns.

7.3 Manager Authority. The Manager shall have all authority, rights and powers conferred by law (subject only to Section 7.4, Section 7.11, Section 7.12 and Section 10 hereof and the Certificate of Formation) and those required or appropriate to the management of the Company's business, as limited by Section 1.3, which, by way of illustration but not by way of limitation, shall include the right, authority and power to cause the Company to:

7.3.1 Take all actions relating to the management of the Property;

7.3.2 Hold, sell, exchange or otherwise dispose of the Property;

7.3.3 Borrow money, and, if security is required therefor subject the Property to any security device, and to prepay, in whole or in part, refinance, increase, modify, consolidate, or extend any security device. All of the foregoing shall be on such terms and in such amounts as the Manager, in its sole and absolute discretion, deems to be in the best interest of the Company;

7.3.4 Enter into such contracts and agreements as the Manager determines to be reasonably necessary or appropriate in connection with the Company's business and purpose (including contracts with Affiliates of the Manager), and any contract of insurance that the Manager deems necessary or appropriate for the protection of the Company and the Manager, including errors and omissions insurance, for the conservation of Company assets, or for any purpose convenient or beneficial to the Company;

7.3.5 Employ persons, who may be Affiliates of the Manager, in the operation and management of the business of the Company;

7.3.6 Prepare or cause to be prepared reports, statements, and other relevant information for distribution to the Members;

7.3.7 Open accounts and deposits and maintain funds in the name of the Company in banks, savings and loan associations, "money market" mutual funds and other instruments as the Manager may deem in its sole and absolute discretion to be necessary or desirable;

7.3.8 Cause the Company to make or revoke any of the elections referred to in the Code (the Manager shall have no obligation to make any such elections);

7.3.9 Select as its accounting year a calendar or fiscal year as may be approved by the Internal Revenue Service (the Company initially intends to adopt the calendar year);

7.3.10 Determine the appropriate accounting method or methods to be used by the Company;

7.3.11 In addition to any amendments otherwise authorized herein, amend this Agreement without any action on the part of the Members by special or general power of attorney or otherwise to:

(a) Add to the representations, duties, services or obligations of the Manager or its Affiliates, for the benefit of the Members;

(b) Cure any ambiguity or mistake, correct or supplement any provision herein that may be inconsistent with any other provision herein, or make any other provision with respect to matters or questions arising under this Agreement that will not be inconsistent with the provisions of this Agreement;

(c) Amend this Agreement to reflect the addition or substitution of Members;

(d) Minimize the adverse impact of, or comply with, any final regulation of the United States Department of Labor, or other federal agency having jurisdiction, defining "plan assets" for ERISA purposes;

(e) Reconstitute the Company under the laws of another state if beneficial;

(f) Execute, acknowledge and deliver any and all instruments to effectuate the foregoing, including the execution, acknowledgment and delivery of any such instrument by the attorney-in-fact for the Manager under a special or limited power of attorney, and to take all such actions in connection therewith as the Manager shall deem necessary or appropriate with the signature of the Manager acting alone;

(g) Make any changes to this Agreement required by the Lender or any subsequent lender that may be required to obtain financing or any refinancing of the Loan so long as such changes are not adverse to the interests of the Members; and

(h) Delete or add any provision to this Agreement required to be so deleted or added for the benefit of the members by the staff of the Securities and Exchange Commission or by a state "Blue Sky" Commissioner or similar official.

7.3.12 Require in any Company contract that the Manager shall not have any personal liability, but that the person or entity contracting with the Company is to look solely to the Company and its assets for satisfaction;

7.3.13 Lease personal property for use by the Company;

7.3.14 Establish reserves from income in such amounts as the Manager may deem appropriate;

7.3.15 Provided it does not violate the Loan Documents, make secured or unsecured loans to the Company and receive interest at the rates set forth herein;

7.3.16 Represent the Company and the Members as "partnership representative" within the meaning of the Code in discussions with the Internal Revenue Service regarding the tax treatment of items of Company income, loss, deduction or credit, or any other matter reflected in the Company's returns,

and, if deemed in the best interest of the Members, to agree to final Company administrative adjustments or file a petition for a readjustment of the Company items in question with the applicable court;

7.3.17 Redeem or repurchase Units on behalf of the Company;

7.3.18 Hold an election for a successor Manager before the resignation, withdrawal, expulsion or dissolution of the Manager;

7.3.19 Initiate, settle and defend legal actions on behalf of the Company;

7.3.20 Admit itself as a Member, but only to the extent necessary to fulfill its duties as the manager of the Company and, in any event, without any Economic Interest;

7.3.21 Enter into any transaction with any partnership, company or venture;

7.3.22 Perform any and all other acts which the Manager is obligated to perform hereunder;

7.3.23 Perform any and all other acts which the Manager is permitted to perform under the Act; and

7.3.24 Execute, acknowledge and deliver any and all instruments to effectuate the foregoing and take all such actions in connection therewith as the Manager may deem necessary or appropriate. The Manager may, on behalf and in the name of the Company, execute any and all documents or instruments.

7.4 Restrictions on Manager's Authority. Subject to the balance of the terms of this Agreement and the Certificate of Formation, neither the Manager nor any Affiliates shall have authority, without a Majority Vote of the Units, to:

7.4.1 Enter into contracts with the Company that would bind the Company after the expulsion, withdrawal, Event of Insolvency, or other cessation to exist of the Manager, or to continue the business of the Company after the occurrence of such event, unless the same is terminable on no more than thirty (30) days notice without payment of a penalty or termination fee;

7.4.2 Use or permit any other person to use Company funds or assets in any manner except for the exclusive benefit of the Company;

7.4.3 Alter the primary purpose of the Company;

7.4.4 Sell or lease to the Company any real property in which the Manager or any Affiliate has any interest;

7.4.5 Admit another person or entity as the Manager, except with the consent of the Members as provided in this Agreement;

7.4.6 Reinvest Cash from Operations in any additional properties;

7.4.7 Enter into any agreement imposing personal liability on any Member; or

7.4.8 Commingle the Company funds with those of any other person or entity, except for (i) the temporary deposit of funds in a bank checking account for the sole purpose of making Distributions immediately thereafter to the Members and the Manager or (ii) funds attributable to the Property and held for use in the management of the operations of the Property.

7.5 Responsibilities of the Manager. The Manager shall:

7.5.1 Have a fiduciary responsibility for the safekeeping and use of all the funds of the Company (but Manager shall have no other fiduciary duties);

7.5.2 Devote such of its time and business efforts to the business of the Company as it shall in its sole and absolute discretion, exercised in good faith, determine to be necessary to conduct the business of the Company for the benefit of the Company and the Members;

7.5.3 File and publish all certificates, statements, or other instruments required by law for formation, qualification and operation of the Company and for the conduct of its business in all appropriate jurisdictions;

7.5.4 Cause the Company to be protected by public liability, property damage and other insurance determined by the Manager in its sole and absolute discretion to be appropriate to the business of the Company; and

7.5.5 At all times use its best efforts to meet applicable requirements for the Company to be taxed as a Company and not as an association taxable as a corporation.

7.6 Administration of Company. So long as it is the Manager and the provisions of this Agreement for compensation and reimbursement of expenses of the Manager are observed, the Manager shall have the responsibility of providing continuing administrative and executive support, advice, consultation, analysis and supervision with respect to the functions of the Company, and compliance with federal, state and local regulatory requirements and procedures. In this regard, the Manager may retain the services of such Affiliates or unaffiliated parties as the Manager may deem appropriate to provide management and financial consultation and advice, and may enter into agreements for the management and operation of Company assets.

7.7 Indemnification of Manager.

7.7.1 The Manager, its shareholders, Affiliates, officers, directors, partners, manager, members, employees, agents and assigns, shall not be liable for, and shall be indemnified and held harmless (to the extent of the Company's assets) from, any loss or damage incurred by them, the Company or the Members in connection with the business of the Company, including costs and reasonable attorneys' fees and any amounts expended in the settlement of any claims of loss or damage resulting from any act or omission, which shall not constitute willful misconduct, bad faith, fraud or gross negligence, pursuant to the authority granted, to promote the interests of the Company. Moreover, the Manager shall not be liable to the Company or the Members because any taxing authorities disallow or adjust any deductions or credits in the Company income tax returns.

7.7.2 Notwithstanding anything contained herein to the contrary, any indemnification of the Manager or any Member shall be fully subordinated to any obligations respecting the Property and such indemnification shall not constitute a claim against the Company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such indemnification obligations.

7.8 No Personal Liability for Return of Capital. The Manager shall not be personally liable or responsible for the return or repayment of all or any portion of the Capital Contribution of any Member or any loan made by any Member to the Company, it being expressly understood that any such return of capital or repayment of any loan shall be made solely from the assets (which shall not include any right of contribution from any Member) of the Company.

7.9 Authority as to Third Persons.

7.9.1 No third party dealing with the Company shall be required to investigate the authority of the Manager or secure the approval or confirmation by any Member of any act of the Manager in connection with the Company business. No purchaser of any property or interest owned by the Company shall be required to determine the right to sell or the authority of the Manager to sign and deliver any instrument of transfer on behalf of the Company, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith.

7.9.2 The Manager shall have full authority to execute on behalf of the Company any and all agreements, contracts, conveyances, deeds, mortgages and other instruments, and the execution thereof by the Manager, executing on behalf of the Company, shall be the only execution necessary to bind the Company thereto. No signature of any Member shall be required.

7.9.3 The Manager shall have the right by separate instrument or document to authorize one or more individuals or entities to execute leases and lease-related documents on behalf of the Company and any leases and documents executed by such agent shall be binding upon the Company as if executed by the Manager.

7.10 Single Purpose Entity. Notwithstanding anything to the contrary contained herein, the Company is and shall continue to be a Single Purpose Entity throughout the term of the Loan. "Single Purpose Entity" means, in the case of the Company, a limited liability company which at all times since its formation and thereafter has not and will not:

7.10.1 Engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;

7.10.2 Acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the ownership, leasing, maintenance and operation of the Property;

7.10.3 Merge into or consolidate with any Person or effectuate a Division, or dissolve, terminate, liquidate in whole or in part, or transfer, Divide or otherwise dispose of all or substantially all of its assets, or change its legal structure;

7.10.4 Fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the Applicable Law of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of this Agreement;

7.10.5 Own any subsidiary, or make any investment in, any Person;

7.10.6 Commingle its assets with the assets of any other Person;

7.10.7 Incur any Indebtedness, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt and (B) Permitted Indebtedness. No Indebtedness other than the Debt may be secured (subordinate or pari passu) by the Property;

7.10.8 Fail to maintain all of its books, records, financial statements and bank accounts separate from those of its Affiliates and any constituent party. The Company's assets have not and will not be listed as assets on the financial statement of any other Person; provided, however, that the Company's assets may be included in a consolidated financial statement of its Affiliates, provided that (A) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Company and such Affiliates and to indicate that the Company's assets and credit are not available to satisfy

the debts and other obligations of such Affiliates or any other Person and (B) such assets shall be listed on the Company's own separate balance sheet. The Company has maintained and will maintain its books, records, resolutions and agreements as official records;

7.10.9 Enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

7.10.10 Maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

7.10.11 Assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts of any other Person, or otherwise pledge its assets for the benefit of any other Person or hold out its credit as being available to satisfy the obligations of any other Person;

7.10.12 Make any loans or advances to any Person;

7.10.13 Fail to file its own tax returns unless prohibited by Applicable Law from doing so (except that the Company may file or may include its filing as part of a consolidated federal tax return, to the extent required and/or permitted by Applicable Law, provided that there shall be an appropriate notation indicating the separate existence of the Company and its assets and liabilities);

7.10.14 Fail either to hold itself out to the public as a legal entity separate and distinct from any other Person and not as a division or part of any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

7.10.15 Fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations (to the extent there exists sufficient cash flow from the Property available to the Company to do so after the payment of all operating expenses and Debt Service and shall not require any equity owner to make additional capital contributions to the Company);

7.10.16 Without the unanimous written consent of all of its partners or members, as applicable, and the consent of each Independent Director (as defined in the Loan Agreement) (regardless of whether such Independent Director is engaged at the Company or SPE Component Entity (as defined in the Loan Agreement) level), (A) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (B) seek or consent to the appointment of a receiver, liquidator or any similar official, (C) take any action that might cause the Company to become insolvent, or (D) make an assignment for the benefit of creditors;

7.10.17 Fail to allocate shared expenses (including, without limitation, shared office space) or fail to use separate stationery, invoices and checks;

7.10.18 Violate or cause to be violated the assumptions made with respect to the Company and its principals in the Non-Consolidation Opinion or in any New Non-Consolidation Opinion (each as defined in the Loan Documents);

7.10.19 Fail to remain solvent, to pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds or fail to maintain a sufficient number of employees in light of its contemplated business operations (in each case, to the extent there exists sufficient cash flow from the Property available to the Company to do so); or

7.10.20 Acquire obligations or securities of its partners, members, shareholders or other Affiliates, as applicable, or identify its partners, members or shareholders or other Affiliates, as applicable, as a division or part of it.

7.11 Special Member.

7.11.1 (a) Upon the occurrence of any event that causes the last remaining Member of the Company to cease to be the Member (other than (i) upon an assignment by such Member of all of its Units issued by the Company and the admission of the transferee in accordance with the Loan Documents and this Agreement, or (ii) the resignation of Member and the admission of an additional Member of the Company in accordance with the terms of the Loan Documents), any Person acting as Independent Director shall, without any action of any other Person and simultaneously with the Member ceasing to be the Member of the Company automatically be admitted as a Member with a 0% economic interest (a "**Special Member**") and shall continue the Company without dissolution, and (b) Special Member may not resign from the Company or transfer its rights as Special Member unless (i) a successor Special Member has been admitted to the Company as a Special Member in accordance with requirements of the Act, and (ii) after giving effect to such resignation or transfer, there remains at least one (1) Independent Director of the Company. In addition, (v) Special Member shall automatically cease to be a Member upon the admission of the first substitute Member, (w) Special Member shall be a Member that has no interest in the profits, losses and capital of the Company and shall have no right to receive any distributions of the assets of the Company or any of its Affiliates, (x) pursuant to the applicable provisions of the Act, Special Member shall not be required to make any Capital Contributions to the Company and shall not receive any Units issued by the Company, (y) Special Member, in its capacity as Special Member, may not bind the Company, and (z) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company including, without limitation, the Division, merger, consolidation or conversion of the Company; *provided*, *however*, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or as otherwise provided herein. In order to implement the admission of Special Member of the Company, Special Member shall execute a counterpart to this Agreement. Prior to its admission as Special Member of the Company, Special Member shall not be a Member of the Company, but Special Member may serve as an Independent Director of the Company.

7.11.2 In addition to the requirements imposed pursuant to Section 7.11.1 hereof, (a) upon the occurrence of any event that causes the last remaining Member of the Company to cease to be a Member of the Company, to the fullest extent permitted by law, the personal representative of such Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of such Member with respect to the Company agree in writing (i) to continue the Company, and (ii) to admit such Member's personal representative or its nominee or designee, as the case may be, as a substitute Member of the Company effective as of the occurrence of the event that terminated the continued membership of such Member with respect to the Company, (b) any action initiated by or brought against such Member or Special Member under any Creditors Rights Laws shall not cause such Member or Special Member to cease to be a Member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution, and (c) each of such Member and Special Member waives any right it might have to agree in writing to dissolve the Company upon the occurrence of any action initiated by or brought against such Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes such Member or Special Member to cease to be a Member of the Company.

7.12 Independent Director.

7.12.1 At all times while the Loan is outstanding, there shall be at least one (1) duly appointed party designated as an independent director (each, an "**Independent Director**"). The

Independent Director (i) shall be reasonably satisfactory to the Lender, and (I) shall not have been at the time of each such individual's initial appointment, and shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as Independent Director, either (A) a Member of, or an officer, director (other than in its capacity as independent director), partner, or employee of, the Company, the Master Tenant or any of the Company's or the Master Tenant's shareholders, partners, members, subsidiaries or Affiliates, (B) a customer of, or supplier to, or other Person who derives any of its purchases or revenues from its activities with, the Company, Master Tenant or any of their respective shareholders, partners, members, subsidiaries or Affiliates, (C) a Person who Controls (as defined in the Loan Agreement) or is under common Control with any such shareholder, officer, director, partner, member, employee supplier, customer or other Person, or (D) a member of the immediate family of any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, and (ii) shall be employed by, in good standing with and engaged by the Company, in connection with, in each case, an Approved ID Provider. Each Independent Director at the time of its initial engagement shall have had at least three (3) years prior experience as an independent director to a company or a corporation in the business of owning and operating commercial properties similar in type and quality to the Property.

7.12.2 In addition to the other provisions of this Section 7.12, the Manager shall not take any action which, under the terms of this Agreement requires the unanimous vote of (i) (A) the Manager, and (B) the Members, unless in the case of the foregoing clause (A), at the time of such action there shall be at least one (1) Independent Director engaged as provided by the terms hereof and in the case of clause (B), the consent of the requisite number of Members has been obtained; (ii) no Independent Director may be removed or replaced without Cause (as defined in the Loan Agreement) and unless the Company provides the Lender with not less than three (3) Business Days' prior written notice of (A) any proposed removal of the Independent Director together with a statement as to the reasons for such removal and (B) the identity of the proposed replacement Independent Director together with a certification that such replacement satisfies the requirements set forth herein for an Independent Director; (iii) to the fullest extent permitted by applicable law, including Section 18-1101(c) of the Act and notwithstanding any duty otherwise existing at law or in equity, the Independent Director shall consider only the interests of the Members and the Company and the Manager or the Master Tenant, as applicable (including the Company's creditors) in acting or otherwise voting on the matters provided for herein (which such fiduciary duties to the Manager and the Company (including their creditors), in each case, shall be deemed to apply solely to the extent of their respective economic interests in the Company exclusive of (x) all other interests (including, without limitation, all other interests of the Manager), (y) the interests of other Affiliates of the Manager, the Company or Master Tenant, as applicable and (z) the interests of any group of Affiliates of which the Manager or the Company is a part)); (iv) other than as provided in subsection (iii) above, the Independent Director shall not have any fiduciary duties to the Manager or any directors, trustees or managers, as applicable, of the Company, the Master Tenant or any other Person; (v) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; (vi) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act, an Independent Director shall not be liable to the Company, the Master Tenant, the Manager or any other Person for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct; and (vii) except as provided in the foregoing subsections (iii) through (vi), the Independent Director shall, in exercising their rights and performing their duties under this Agreement, have a fiduciary duty of loyalty and care similar to that of a director of a business corporation organized under the General Corporation Law of the State of Delaware.

8. Rights, Authority and Voting of the Members.

8.1 Members are Not Agents. Pursuant to Section 7 and the Certificate of Formation, the day-to-day management of the Company is vested solely in the Manager. No Member, acting in the capacity of a Member, is an agent of the Company nor can any Member in such capacity bind or execute any instrument on behalf of the Company.

8.2 Voting Rights of Members. Members who own Units shall be entitled to cast one vote for each Unit they own. Except as otherwise specifically provided in this Agreement, Members shall have the right to vote only upon the following matters:

8.2.1 Removal of the Manager as provided in Section 9.2 of this Agreement;

8.2.2 Election of a successor Partnership Representative;

8.2.3 Amendment of this Agreement (except as otherwise provided herein);

8.2.4 Extension of the term of the Company as provided in Section 12.1.4 when there is a Dissolution Event; or

8.2.5 Election of a successor Manager.

8.3 Member Vote; Consent of Manager. All matters upon which the Members may vote, except as otherwise provided in this Agreement, shall require a Majority Vote and, except for removal of the Manager as provided in Section 9.2, the consent of the Manager to pass and become effective, which consent of Manager shall not be unreasonably withheld, conditioned, or delayed. The foregoing notwithstanding, at any time the Loan is outstanding, all Members shall be conclusively deemed to have elected to continue the existence of the Company under Section 8.2.4.

8.4 Meetings of the Members. The Manager may at any time call for a meeting of the Members, or for a vote without a meeting, on matters on which the Members are entitled to vote, and shall call for such a meeting (but not a vote without a meeting) following receipt of a written request therefor of Members holding more than ten percent (10.0%) of the Units entitled to vote as of the record date. Within twenty (20) days after receipt of such request, the Manager shall notify all Members of record on the record date of the meeting.

8.4.1 Notice. Except as provided by Section 8.4.5, written notice of each meeting shall be given to each Member entitled to vote, either personally or by mail or other means of written communication, charges prepaid, addressed to such Member at his or her address appearing on the books of the Company or given by him or her to the Company for the purpose of notice or, if no such address appears or is given, at the principal executive office of the Company, or by publication of notice at least once in a newspaper of general circulation in the county in which such office is located. All such notices shall be sent not less than five (5), nor more than sixty (60), days before such meeting. The notice shall specify the place, date and hour of the meeting and the general nature of business to be transacted, and no other business shall be transacted at the meeting.

8.4.2 Adjourned Meeting and Notice Thereof. When a Members' meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business that might have been transacted at the original meeting. If the adjournment is for more than forty-five (45) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting.

8.4.3 Quorum. The presence in person or by proxy of the persons entitled to vote a majority of the Units shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment. Any meeting of Members may be adjourned from time to time by a Majority Vote of the Units represented either in person or by proxy.

8.4.4 Consent of Absentees. The transactions of any meeting of Members, however called and noticed and wherever held, are as valid as though they occurred at a meeting duly held after

regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of the meeting or an approval of the minutes thereof. All waivers, consents and approvals shall be filed with the Company records or made a part of the minutes of the meeting.

8.4.5 Action Without Meeting. Except as otherwise provided in this Agreement, any action which may be taken at any meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by Members having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all entitled to vote thereon were present and voted. In the event the Members are requested to consent on a matter without a meeting, each Member shall be given not less than five (5), nor more than sixty (60), days prior notice.

8.4.6 Record Dates. For purposes of determining the Members entitled to notice of any meeting or to vote or entitled to receive any Distributions or to exercise any rights in respect of any other lawful matter, the Manager may fix in advance a record date, which is not more than sixty (60) nor less than five (5) days prior to the date of the meeting nor more than sixty (60) days prior to any other action. If no record date is fixed:

(a) The record date for determining Members entitled to notice of or to vote at a meeting of Members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held;

(b) The record date for determining Members entitled to give consent to Company action in writing without a meeting shall be the day on which the first written consent is given;

(c) The record date for determining Members for any other purpose shall be at the close of business on the day on which the Manager adopts it, or the sixtieth (60th) day before the date of the other action, whichever is later; and

(d) A determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment of the meeting unless the Manager, or the Members who requested the meeting, fix a new record date for the adjourned meeting, but the Manager, or such Members, shall fix a new record date if the meeting is adjourned for more than forty-five (45) days from the date set for the original meeting.

8.4.7 Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by one or more agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the Manager. No proxy shall be valid after the expiration of three (3) months from the date thereof unless otherwise provided in the proxy. Every proxy continues in full force and effect until revoked as specified or unless it states that it is irrevocable. A proxy that states that it is irrevocable is irrevocable for the period specified therein to the fullest extent permitted by law.

8.4.8 Chairman of Meeting. The Manager may select any person to preside as Chairman of any meeting of the Members, and if such person shall be absent from the meeting, or fail or be unable to preside, the Manager may name any other person in substitution therefor as Chairman. In the absence of an express selection by the Manager of a Chairman or substitute therefor, the Chief Executive Officer, President, Vice President, Secretary, or Chief Financial Officer of the Manager shall preside as Chairman, in that order. The Chairman of the meeting shall designate a secretary for such meeting, who shall take and keep or cause to be taken and kept minutes of the proceedings thereof. The conduct of all Members'

meetings shall at all times be within the sole and absolute discretion of the Chairman of the meeting and shall be conducted under such rules as he may prescribe. The Chairman shall have the right and power to adjourn any meeting at any time, without a vote of the Units present in person or represented by proxy, if the Chairman shall determine such action to be in the best interests of the Company.

8.4.9 Inspectors of Election. In advance of any meeting of Members, the Manager may appoint any persons other than nominees for Manager or other office as the inspector of election to act at the meeting and any adjournment thereof. If an inspector of election is not so appointed, or if any such person fails to appear or refuses to act, the Chairman of any such meeting may, and on the request of any Member or his proxy shall, make such appointment at the meeting. The inspector of election shall determine the number of Units outstanding and the voting power of each, the Units represented at the meeting, the existence of a quorum, the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all Members.

8.4.10 Record Date and Closing Company Books. When a record date is fixed, only Members of record on that date are entitled to notice of and to vote at the meeting or to receive a Distribution, or allotment of rights, or to exercise the rights, as the case may be, notwithstanding any transfer of any Units on the books of the Company after the record date.

8.5 Rights of Members. No Member shall have the right or power to: (i) withdraw or reduce his contribution to the capital of the Company, except as a result of the dissolution and termination of the Company or as otherwise provided in this Agreement or by law; (ii) bring an action for partition against the Company; (iii) demand or receive property other than cash in return for his Capital Contribution; or (iv) direct the Manager with respect to day-to-day management of the Company or its books and records. Except as provided in this Agreement, no Member shall have priority over any other Member either as to the return of Capital Contributions or as to allocations of the income, loss or Distributions of the Company. Other than upon the termination and dissolution of the Company as provided by this Agreement, there has been no time agreed upon when the contribution of each Member (other than the Initial Member) is to be returned.

8.6 Restrictions on the Member. No Member shall:

8.6.1 Disclose to any non-Member other than their lawyers, accountants or consultants and/or commercially exploit any of the Company's business practices, trade secrets or any other information not generally known to the business community;

8.6.2 Do any other act or deed with the intention of harming the business operations of the Company; or

8.6.3 Do any act contrary to this Agreement.

8.7 Return of Capital of Member. In accordance with the Act, a Member may, under certain circumstances, be required to return to the Company, for the benefit of the Company's creditors, amounts previously distributed to the Member. If any court of competent jurisdiction holds that any Member is obligated to make any such payment, such obligation shall be the obligation of such Member and not of the Company, the Manager or any other Member.

8.8 Bank Holding Company Act. Any Units held directly or indirectly for its own account by a Member that is a "bank holding company," as defined in section 2(a) of the BHC Act, or a non-bank subsidiary of such bank holding company, or a foreign bank subject to the BHC Act pursuant to the International Banking Act of 1978, as amended, or a subsidiary of any such foreign bank subject to the

BHC Act (each, a "**BHC Member**"), together with the Units of all Affiliates (as defined under the BHC Act) of such BHC Member, that is determined at the time of admission of that Member, the withdrawal of another Member or any other event resulting in an adjustment in the relative Units of the Members hereunder to be in the aggregate in excess of 4.99% of the Units of the Members, excluding for purposes of calculating this percentage portions of any other interests that are non-voting Units pursuant to this Section 8.8 or any other section of this Agreement (collectively the "**Non-Voting Units**"), shall be a Non-Voting Units (whether or not subsequently transferred in whole or in part to any other person) and shall not be included in determining whether the requisite percentage in Units of the Members have consented to, approved, adopted or taken any action hereunder; *provided*, that such Non-Voting Units shall be permitted to vote on matters as to which non-voting equity interests are permitted to vote pursuant to 12 CFR § 225.2(q)(2). Each BHC Member hereby irrevocably waives its corresponding right to vote in respect of its Non-Voting Units in respect of any successor manager under applicable law, if any, which waiver shall be binding upon such BHC Member or any entity which succeeds to its Units. Upon the date of any subsequent admission of an additional Member, any withdrawal of a Member, or any other event resulting in an adjustment in the relative Units of the Members hereunder (each such date, a "**BHC Recalculation Date**"), a recalculation of the Units held by all BHC Members and their Affiliates shall be made, and only that portion of the total Units held by each BHC Member and its Affiliates that is determined as of the applicable BHC Recalculation Date, to be in the aggregate in excess of 4.99% of the Units of the Members, excluding Non-Voting Units as of such date, shall be a Non-Voting Units. Notwithstanding the foregoing, at the time of admission to the Company, any BHC Member may elect not to be governed by this Section 8.8 by providing written notice to the Manager stating that such BHC Member intends to acquire or control more than 4.99% of the voting Units held by the Members pursuant to such BHC Member's reliance on section 4(k) of the BHC Act. Any such election by a BHC Member may be rescinded at any time by written notice to the Manager; *provided*, that any such rescission shall be irrevocable.

9. Resignation, Withdrawal or Removal of the Manager.

9.1 Resignation or Withdrawal of the Manager. Subject to Section 10 hereof, the Manager shall not resign or withdraw as the Manager or do any act that would require its resignation or withdrawal without a Majority Vote. If the Manager is permitted to resign pursuant to this Section 9.1, an additional Manager of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Manager shall cease to be a Manager of the Company.

9.2 Removal. The Manager may be removed by a Majority Vote for "cause". For purposes of this Section 9.2, "cause" shall be deemed to exist (i) if the Manager has engaged in willful misconduct, bad faith, fraud or gross negligence and has materially damaged the Company, or (ii) upon an Event of Insolvency of the Manager.

9.3 Manager's Fees. Upon the removal of the Manager pursuant to Section 9.2 or its withdrawal with the approval of a Majority Vote, such Manager shall be paid all of its earned but unpaid fees and other compensation remaining to be paid under this Agreement. The Company shall pay these amounts to the Manager in cash prior to the effective date of the removal or withdrawal of the Manager. All fees and compensation paid to the Manager pursuant to this Section 9.3 shall be subordinate to all amounts owed by the Company to the Lender; *provided*, *however*, the Manager shall be entitled to receive and keep all such fees and compensation paid to the Manager.

10. Assignment of Units.

10.1 Permitted Assignments. Unless such transfer is as a part of the FMV Option under Section 10.7, a Member may only sell, assign, hypothecate, encumber or otherwise transfer all or any part of his or her interest in the Company, if the following requirements are satisfied:

10.1.1 The Manager consents in its sole and absolute discretion in writing to the transfer;

10.1.2 No Member shall transfer, assign or convey or offer to transfer, assign or convey all or any portion of a Unit to any person who does not possess the financial qualifications required of all persons who become Members, as described in the Memorandum;

10.1.3 No Member shall have the right to transfer any Unit to any minor or to any person who, for any reason, lacks the capacity to contract for himself or herself under applicable law. Such limitations shall not, however, restrict the right of any Member to transfer any one or more Units to a custodian or a trustee for a minor or other person who lacks such contractual capacity;

10.1.4 The Manager, with advice of counsel, must determine that such transfer will not jeopardize the applicability of the exemptions from the registration requirements under the Securities Act of 1933, as amended, and registration or qualification under state securities laws relied upon by the Company and Manager in offering and selling the Units or otherwise violate any federal or state securities laws;

10.1.5 The Manager, with advice of counsel, must determine that, despite such transfer, Units will not be deemed traded on an established securities market or "readily tradable on a secondary market (or the substantial equivalent thereof)" under Section 7704 of the Code;

10.1.6 Any such transfer shall be by a written instrument of assignment, the terms of which are not in contravention of any of the provisions of this Agreement, and which has been duly executed by the assignor of such Units and accepted by the Manager in writing, in advance of consummation of the transfer; and

10.1.7 A transfer fee shall be paid by the transferring Member in such amount as may be required by the Manager to cover all reasonable expenses, including attorneys' fees, connected with such assignment.

10.2 Records of Ownership. The Manager shall keep or otherwise engage a third-party recordkeeping service provider to maintain Records of Ownership, which shall include records of the transfer and exchange of Units. Notwithstanding any provision of this Agreement to the contrary, transfer of a Unit, or of any right, title or interest therein, shall occur only upon and by virtue of the entry of such transfer in the Records of Ownership.

10.3 Substituted Member.

10.3.1 Conditions to be Satisfied. No person shall have the right to become a Substituted Member unless the Manager shall consent thereto in accordance with Section 10.1.1 and all of the following conditions are satisfied:

(a) A duly executed and acknowledged written instrument of assignment shall have been filed with the Company, which instrument shall specify the number of Units being assigned and set forth the intention of the assignor that the assignee succeed to the assignor's interest as a Substituted Member in his or her place;

(b) The assignor and assignee shall have executed, acknowledged and delivered such other instruments as the Manager may deem necessary or desirable to effect such substitution, which may include an opinion of counsel regarding the effect and legality of any such proposed transfer, and which shall include: (i) the written acceptance and adoption by the assignee of the provisions of this Agreement and (ii) the execution, acknowledgment and delivery to the Manager of a special power of attorney, the form and content of which are more fully described herein; and

(c) A transfer fee sufficient to cover all reasonable expenses connected with such substitution shall have been paid to the Company.

10.3.2 Consent of Manager. The consent of the Manager shall be required to admit a person as a Substituted Member. The granting or withholding of such consent shall be within the sole and absolute discretion of the Manager.

10.3.3 Consent of Member. By executing or adopting this Agreement, each Member hereby consents to the admission of additional or Substituted Members upon consent of the Manager and in compliance with this Agreement.

10.4 Assignment of 50.0% or More of Units. No assignment of any Units may be made if the Units to be assigned, when added to the total of all other Units assigned within the thirteen (13) immediately preceding months, would, in the advice of counsel for the Company, result in the termination of the Company under the Code.

10.5 Restrictions on Transfer. No assignment, sale, transfer, exchange or other disposition of any Units may be made except in compliance with the applicable governmental laws and regulations, including state and federal securities laws. In the event of any breach of this Section 10, the Member engaging in or attempting any action prohibited by this Section 10 shall indemnify, defend, and hold harmless the Manager and its Affiliates from and against any losses, liabilities, claims, costs, and expenses (including legal fees) incurred in connection with curing, unwinding, or otherwise addressing any compliance obligations or adverse consequences arising from such prohibited assignment, transfer, pledge, or encumbrance under this Agreement or the Loan Documents. Such Member further agrees that the Manager may take any reasonable action, in its sole discretion, to remedy or rectify the effects of such prohibited action.

10.6 Termination of Limited Liability Company Interest. Upon the transfer of a Unit in violation of this Agreement, or the occurrence of a Member Dissolution that does not result in the dissolution of the Company, the Limited Liability Company Interest of a Member shall be, at the option of the Manager in its sole and absolute discretion, either (a) converted into an Economic Interest, or (b) deemed void ab initio and shall not be binding on the Company, the Manager or any other Member.

10.7 FMV Option.

10.7.1 FMV Option. Subject to full compliance with the requirements of Sections 10.7.2 and 10.7.3, the Option Holder may offer the Members the opportunity to sell their Units to one or more entities organized or identified by the Sponsor (each, an "**Exchange Entity**") for cash (the "**FMV Option**"). The purchase price payable in cash to any Member whose Units are acquired for cash (the "**Cash Value**") shall equal the then fair market value of such Member's Units as of the date the FMV Option is exercised, *less*, solely with respect to such Member, a cash redemption fee in an amount up to 2.5% of the then-fair market value of each such electing Member's Units (the "**Cash Redemption Fee**"), which Cash Redemption Fee shall be remitted to the Manager; *provided*, *however*, that the Manager may reallow a portion of the Cash Redemption Fee to one or more third parties in its sole and absolute discretion; *provided*, *further*, that no Cash Redemption Fee shall be charged unless and until, at the time of the contemplated

disposition of Units pursuant to the FMV Option, the Members have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Company. The foregoing notwithstanding, the Option Holder may alternatively present each Member an option but not the obligation to receive units of an equal aggregate value to the Cash Value ("**EE Units**") of such Member's Units, as of the date the FMV Option is exercised (in lieu of the Cash Value), issued by one or more Exchange Entities, in each case pursuant to a transaction (an "**Exchange**") intended to qualify as a tax-deferred exchange under Code Section 721, pursuant to the terms of this Section 10.7. Any such election by a Member to receive either the Cash Value or EE Units shall apply to all of such Member's Units subject to the FMV Option, and no Member may elect to receive cash with respect to a portion of its Units and EE Units with respect to the remainder. For the avoidance of doubt, no Cash Redemption Fee shall be charged, imposed, or deducted in connection with any Exchange in which a Member receives EE Units in lieu of cash, and the value of such EE Units shall be determined without regard to the Cash Redemption Fee.

10.7.2 Notices and Process. The FMV Option shall be exercised pursuant to a "**Notice of FMV Option**," a form of which is attached as **Exhibit 4** to this Agreement, delivered to the Members by the Option Holder. Notwithstanding anything to the contrary, the Option Holder may not exercise the FMV Option until all Members have held their Units for at least two (2) years. If a Member elects to exercise its right to have an Exchange Entity exchange such Member's Units for EE Units, such Member shall so notify the Option Holder in writing within twenty (20) business days after the date on which the Option Holder mails the Notice of FMV Option to the Member (the "**Unit Notice**"). If a Member does not provide a Unit Notice to the Option Holder within twenty (20) business days after the mailing date of the Notice of FMV Option, such Member shall be deemed to have irrevocably elected to receive the Cash Value and, solely in such case, shall be subject to the Cash Redemption Fee in accordance with Section 10.7.1. For the avoidance of doubt, each Member's election to receive the EE Units (or receive Cash Value) shall be made individually and independently of the elections of other Members.

10.7.3 Documentation and Signatures; Delivery. Each Member agrees to execute such documents and signatures as the Option Holder may reasonably require in connection with the exercise of the FMV Option under Section 10.7.1. Upon receipt of any and all documents and signatures required by the Option Holder under this Section 10.7.3 (such date of final receipt, the "**Receipt Date**"), the Option Holder shall distribute to any Member the Cash Value (*less* the Cash Redemption Fee, if applicable) and/or the EE Units, as applicable in each case, within eighty (80) business days of the Receipt Date. For the avoidance of doubt and without limiting the foregoing, the parties hereto acknowledge and agree that (A) the Option Holder shall be authorized to exercise its sole and absolute discretion as to the particular mechanics employed to operationalize the FMV Option under Section 10.7.1, and (B) the Option Holder may require that the Company transfer the Property directly to the Option Holder in order to exercise the FMV Option under Section 10.7.1.

10.7.4 Determination of Fair Market Value. For the purposes of the FMV Option, the fair market value of a Member's Units issued by the Company to be acquired by the Option Holder shall be determined by multiplying: (i) the Percentage Share represented by the interests in the Company to be acquired by the Option Holder by (ii) the fair market value of the Property, determined by an independent appraisal firm selected by the Option Holder in its sole and absolute discretion. Such appraisal shall have been completed within sixty (60) days of the date the FMV Option is exercised. No discounts for lack of liquidity or minority interests shall be considered in determining the fair market value of such interests in the Company.

10.7.5 Continued Existence of the Company. Notwithstanding anything to the contrary in this Agreement, the Company shall survive the exercise of the FMV Option by the Option Holder. The Company intends to remain a "disregarded entity" under Section 301.7701-3 of the U.S. treasury regulations promulgated under the Code.

11. Books, Records, Accounting and Financial Statements.

11.1 Records, Audits and Financial Statements. The Company shall maintain at its principal office or at a designated location reasonably determined by a third-party recordkeeping service provider the Company's records and accounts of all operations and expenditures of the Company including the following:

11.1.1 A current list in alphabetical order of the full name and last known business or resident address of each Member and Manager, together with the number of Units owned by each Member;

11.1.2 A copy of the Certificate of Formation and all amendments thereto, together with any powers of attorney pursuant to which the Certificate of Formation or any amendments thereto were executed;

11.1.3 Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;

11.1.4 Copies of this Agreement and any amendments thereto together with any powers of attorney pursuant to which any written accounting or any amendments thereto were executed;

11.1.5 Copies of any financial statements of the Company, if any, for the six (6) most recent years; and

11.1.6 The Company's books and records as they relate to the internal affairs of the Company for at least the current and past four (4) fiscal years.

11.2 Delivery to Members.

11.2.1 Each Member and each Member's representative designated in writing have the right, upon reasonable written request for purposes related to the interest of that person as a Member, which purposes are set forth in the written request, to receive from the Company a copy of this Agreement and the Certificate of Formation and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement and any certificate and all amendments thereto have been executed, *provided* such copy shall not contain any identifying information with regard to a Member and shall be redacted of such information.

11.2.2 Other than as expressly provided in this Agreement, no Member shall have any right to information, reports or records of the Company or with respect to any Member or the Manager. Without limiting the foregoing, no Member shall have the right under this Agreement to receive, review, copy or inspect any list of the Members or any identifying information with regard to the Members, whether or not requested, and Manager shall not have any obligation to provide such information.

11.3 Annual Financial Statement. The Manager will cause the Company, at the Company's expense, to prepare an annual financial statement containing a year-end balance sheet, income statement and a statement of changes in financial position. Copies of such statements shall be distributed to each Member within ninety (90) days after the close of each fiscal year of the Company.

11.4 Tax Information. The Manager shall cause the Company, at the Company's expense, to prepare and timely file income tax returns for the Company with the appropriate authorities, and shall cause all Company information necessary in the preparation of the Members' individual income tax returns to be distributed to the Members not later than 75 days after the end of the Company's fiscal year.

12. Termination and Dissolution of the Company.

12.1 Termination of Company. Subject to the limitations contained in Section 1.4 and Section 10 of this Agreement and to the Certificate of Formation, the Company shall be dissolved, shall terminate and its assets shall be disposed of, and its affairs wound up, upon the earliest to occur of the following:

12.1.1 Upon the happening of any event of dissolution specified in the Certificate of Formation;

12.1.2 A determination by the Manager to terminate the Company;

12.1.3 The sale of the Contributed Property, held by the Company, or the receipt of the final payment on any seller financing provided by the Company on the sale of the Contributed Property, if later; or

12.1.4 The occurrence of a Dissolution Event unless the business of the Company is continued by a Majority Vote of the remaining Members within ninety (90) days following the occurrence of the event.

The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of a Member (a "**Member Dissolution**") shall not cause the termination or dissolution of the Company and the business of the Company shall continue.

12.2 Certificate of Cancellation. As soon as possible following the completion of the winding up of the Company, a Manager who has not wrongfully dissolved the Company or, if none, the Members, shall execute and file a Certificate of Cancellation in such form as shall be required by the Act. The Company shall continue to exist as a separate legal entity until the Certificate of Cancellation has been filed in accordance with the Act.

12.3 Liquidation of Assets. Upon a dissolution and termination of the Company, the Manager (or in case there is no Manager, the Members or person designated by a Majority Vote) shall take full account of the Company assets and liabilities, shall liquidate the assets as promptly as is consistent with obtaining the fair market value thereof, and shall apply and distribute the proceeds therefrom in the following order:

12.3.1 To the payment of creditors of the Company, other than Members who are creditors, but excluding secured creditors whose obligations will be assumed or otherwise transferred on liquidation of Company assets, and then to the payment of Members who are creditors of the Company;

12.3.2 To the setting up of any reserves as required by law for any liabilities or obligations of the Company; *provided*, *however*, that said reserves shall be deposited with a bank or trust company in escrow with interest for the purpose of disbursing such reserves for the payment of any of the aforementioned contingencies and, at the expiration of a reasonable period, for the purpose of distributing the balance remaining in accordance with the remaining provisions of this Section 12.3; and

12.3.3 To the Members in proportion to their Units.

12.4 Distributions upon Dissolution. Each Member shall look solely to the assets of the Company for all Distributions, and shall have no recourse therefor (upon dissolution or otherwise) against any Manager or any Member.

12.5 Limitation on Distributions. Notwithstanding any other provision in this Agreement, the Company shall make no distribution that would violate the Act, the Loan Documents, or other applicable law.

12.6 Waiver of Dissolution and Termination. Notwithstanding anything to the contrary contained in this Agreement, the Company and its Members, to the fullest extent permitted by law, hereby waive their right to dissolve or terminate (and waive their right to consent to the dissolution or termination of) the Company or this Agreement.

13. Special and Limited Power of Attorney.

13.1 Power of Attorney. The Manager shall at all times during the term of the Company have a special and limited power of attorney as the attorney-in-fact for each Member, with power and authority to act in the name and on behalf of each such Member to execute, acknowledge, and swear to in the execution, acknowledgment and filing of documents that are not inconsistent with the provisions of this Agreement and which may include, by way of illustration but not by way of limitation, the following:

13.1.1 This Agreement, as well as any amendments to the foregoing which, under the laws of the State of Delaware or the laws of any other state, are required to be filed or which the Manager shall deem it advisable to file;

13.1.2 Any other instrument or document that may be required to be filed by the Company under the laws of any state or by any governmental agency or which the Manager shall deem it advisable to file;

13.1.3 Any instrument or document that may be required to effect the continuation of the Company, the admission of Substituted Members, or the dissolution and termination of the Company (*provided* such continuation, admission or dissolution and termination are in accordance with the terms of this Agreement);

13.1.4 Any instrument of conveyance or encumbrance with respect to the Contributed Property;

13.1.5 Any and all other instruments as the Manager may deem necessary or desirable to effect the purposes of this Agreement and carry out fully its provisions, including, but not limited to, those in Sections 7 and 17.

13.2 Provision of Power of Attorney. The special and limited power of attorney of the Manager:

13.2.1 Is a special power of attorney coupled with the interest of the Manager in the Company, and its assets, is irrevocable, shall survive the death, incapacity, termination or dissolution of the granting Member, and is limited to those matters herein set forth;

13.2.2 May be exercised by the Manager by and through one or more of the officers of the Manager, for each of the Members by the signature of the Manager acting as attorney-in-fact for the Members, together with a list of all Members executing such instrument by their attorney-in-fact or by such other method as may be required or requested in connection with the recording or filing of any instrument or other document so executed; and

13.2.3 Shall survive an assignment by a Member of all or any portion of his or her Units except that, where the assignee of the Units owned by the Member has been approved by the Manager for admission to the Company as a Substituted Member, the special power of attorney shall survive such assignment for the sole purpose of enabling the Manager to execute, acknowledge and file any instrument or document necessary to effect such substitution to the fullest extent permitted by law.

13.3 Notice to Members. The Manager shall promptly furnish to a Member a copy of any amendment to this Agreement executed by the Manager pursuant to a power of attorney from the Member.

14. Relationship of this Agreement to the Act. Many of the terms of this Agreement are intended to alter or extend provisions of the Act as they may apply to the Company or the Members. Any failure of this Agreement to mention or specify the relationship of such terms to provisions of the Act that may affect the scope or application of such terms shall not be construed to mean that any of such terms are not intended to be a provision of this Agreement authorized or permitted by the Act or which in whole or in part alters, extends or supplants provisions of the Act as may be allowed thereby.

15. Amendment of Agreement.

15.1 Admission of Member. Amendments to this Agreement for the admission of any Member or Substituted Member shall not, if in accordance with the terms of this Agreement, require the consent of any Member.

15.2 Amendments with Consent of Members. The terms of Section 10.1, and the Certificate of Formation, in addition to any amendments otherwise authorized herein, this Agreement may be amended by the Manager with a Majority Vote of the Units; *provided*, *however*, that any amendment that would treat a specific Member less favorably than another Member (in application but not in effect), then such amendment shall require the vote of such adversely affected Member.

15.3 Amendments without Consent of the Members. The terms of Section 10.1, and the Certificate of Formation, in addition to any amendment to this Agreement authorized pursuant to Section 7.3.11 or otherwise authorized herein, the Manager may amend this Agreement, without the consent of any of the Members, to (i) change the name and/or principal place of business of the Company, or (ii) decrease the rights and powers of the Manager (so long as such decrease does not impair the ability of the Manager to manage the Company and conduct its business and affairs); *provided*, *however*, that no amendment shall be adopted pursuant to this Section 15.3 unless the adoption thereof (A) is for the benefit of or not adverse to the interests of the Members, (B) is not inconsistent with Section 7 or Section 10, and (C) does not affect the limited liability of the Members or the status of the Company as a partnership for federal income tax purposes. Further, the Manager shall be allowed to amend this Agreement without the consent of any of the Members to comply with any terms or modifications required by any lender to make this Agreement comply with any single purpose entity requirements; *provided*, *however*, no such amendment shall be adverse to the interests of the Members.

15.4 Execution and Recording of Amendments. Any amendment to this Agreement shall be executed by the Manager, and by the Manager as attorney-in-fact for the Members pursuant to the power of attorney contained in Section 13. After the execution of such amendment, the Manager shall also prepare and record or file any certificate or other document which may be required to be recorded or filed with respect to such amendment, either under the Act or under the laws of any other jurisdiction in which the Company holds any property or otherwise does business.

16. Member Representations. Each Member hereby represents and warrants to the Company, the Manager and all other Members that:

16.1 Such Member has the power and authority to execute and comply with the terms and provisions hereof.

16.2 Such Member's interest in the Company has not and will not be registered under the Securities Act of 1933, as amended, or the securities laws of any state, and cannot be sold or transferred without compliance with the registration provisions of said Securities Act of 1933, as amended, and the applicable state securities laws, or compliance with the exemptions, if any, available thereunder. Such Member understands that neither the Company nor the Manager or any other Member has any obligation or intention to register the Member interests under any federal or state securities act or law, or to file the reports to make public the information required by Rule 144 under the Securities Act of 1933, as amended.

17. Miscellaneous.

17.1 Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one Agreement, binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

17.2 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Members.

17.3 Severability. In the event any sentence or Section of this Agreement is declared by a court of competent jurisdiction to be void, such sentence or Section shall be deemed severed from the remainder of this Agreement and the balance of this Agreement shall remain in full force and effect.

17.4 Notices. All notices under this Agreement shall be in writing and shall be given to the Member entitled thereto, by personal service or by mail, posted to the address maintained by the Company for such person or at such other address as he or she may specify in writing; *provided*, *however*, that in the event that any such Member does not respond to the personal service or mail as set forth above, that the Manager shall send out one additional notice by certified mail return receipt requested or by a delivery service that maintains records regarding their deliveries or attempted deliveries.

17.5 Manager's Address. The address of the Manager is as follows:

FREX DB Series I Springing Manager LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: David Hammerman (dhammerman@fortress.com);
David Moson (dmoson@fortress.com);
GC – Credit Funds (gccredit@fortress.com);
Eli Edwards (eedwards@fortress.com); and
Kerry Campelo (kcampelo@fortress.com)

17.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (without regard to its conflict of laws principles).

17.7 Captions. Section titles or captions contained in this Agreement are inserted only as a matter of convenience and reference. Such titles and captions in no way define, limit, extend or describe the scope of this Agreement nor the intent of any provisions hereof.

17.8 Gender. Whenever required by the context hereof, the singular shall include the plural, and vice versa, the masculine gender shall include the feminine and neuter genders, and vice versa.

17.9 Time. Time is of the essence with respect to this Agreement.

17.10 Additional Documents. Each Member, upon the request of the Manager, shall perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement, including, but not limited to, providing acknowledgment before a Notary Public of any signature made by a Member.

17.11 Descriptions. All descriptions referred to in this Agreement are expressly incorporated herein by reference as if set forth in full, whether or not attached hereto.

17.12 Choice of Law and Venue. Any action relating to or arising out of this Agreement shall be brought only in a court of competent jurisdiction located in New York County, New York, and in such

action the substantive laws of Delaware shall be applicable, without regard to any choice of laws principles. Members hereby waive trial by jury in any action, proceeding or counterclaim brought by any of the parties hereto on any matters whatsoever arising out of or in any way connected with this Agreement, or in connection with any emergency statutory or any other statutory remedy. Should a Member (or Members) threaten to bring or bring any legal proceeding, claim or counterclaim arising out of, or relating to, this Agreement, as may be amended from time to time, against the Company, the Manager, and / or its Affiliates, such Member(s) shall pay all of the attorneys' fees, costs and litigation expenses incurred by the Company, the Manager, and / or its Affiliates in investigating, defending, and /or otherwise responding to such threatened or actual legal proceeding, claim or counterclaim, unless it is determined by a court of competent jurisdiction that said Member(s) prevailed on such claim or counterclaim.

17.13 Partition. The Members agree that the assets of the Company are not and will not be suitable for partition. Accordingly, each of the Members hereby irrevocably waives any and all rights that he may have, or may obtain, to maintain any action for partition of any of the assets of the Company.

17.14 Integrated and Binding Agreement. This Agreement contains the entire understanding and agreement among the Members with respect to the subject matter hereof, and there are no other agreements, understandings, representations or warranties among the Members other than those set forth herein except the purchase agreement executed in connection with the purchase of Beneficial Interests in the Trust (the "**Purchase Agreement**"). This Agreement may be amended only as provided in this Agreement.

17.15 Legal Counsel. Each Member acknowledges and agrees that counsel representing the Company, the Manager and its Affiliates does not represent and shall not be deemed under the applicable codes of professional responsibility to have represented or to be representing any or all of the Members, other than the Manager, in any respect. In addition, each Member consents to the Manager hiring counsel for the Company that is also counsel to one or more of the Managers.

17.16 Title to Company Property. All property owned by the Company shall be owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall have any ownership interest in any Company property in its individual name or right, and each Member's Limited Liability Company Interest shall be personal property for all purposes. As long as any obligation to any creditor is outstanding, nothing herein is intended to give any creditor of a Member any rights in the Member's interest in the Company other than as an assignee of the Member's interest in the Company and such creditor will have no direct claim to the assets of the Company.

17.17 Conflict. In the event of a conflict between the terms of this Agreement and the Certificate of Formation, the terms of the Certificate of Formation shall control.

17.18 Signature of the Members. The Members hereby acknowledge and agree that by signing the Purchase Agreement they are also agreeing to be bound by the terms of this Agreement and that their signature hereto will not be required as of the Transfer Date.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned have set their hands to this Agreement as of the date set forth below.

MANAGER:

FREX DB SERIES I SPRINGING MANAGER LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

INITIAL MEMBER:

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: _____
Title: _____

EXHIBIT 1
Definitions

"**Act**" means the Delaware Limited Liability Company Act, as the same may be amended from time to time.

"**Additional Voluntary Capital Contributions**" means those additional Capital Contributions which may be voluntarily given pursuant to Section 3.3 hereof.

"**Affiliate**" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "**control**," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise; and the terms "**controlling**" and "**controlled**" shall have meanings correlative to the foregoing.

"**Agreement**" means this Limited Liability Company Agreement, as amended from time to time.

"**Applicable Law**" means all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Company or the Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, including, without limitation, the Americans with Disabilities Act of 1990, and all permits, licenses and authorizations and regulations relating thereto.

"**Approved ID Provider**" shall mean each of CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company and Lord Securities Corporation; *provided*, that, additional national providers of independent directors may be deemed added to the foregoing hereunder to the extent approved in writing by the Lender and the Rating Agencies (as defined in the Loan Agreement).

"**Beneficial Interest**" means a beneficial interest in the Trust, as such term is used in the Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. §3801, *et seq.*, all of which interests shall be either Class 1 Beneficial Interests (as defined in the Trust Agreement) or the Class 2 Beneficial Interests (as defined in the Trust Agreement).

"**Beneficial Owner**" means each person who, at the time of determination, holds a Beneficial Interest as reflected on the Ownership Records (as defined in the Trust Agreement) as of the Transfer Date.

"**BHC Act**" means the United States Bank Holding Company Act of 1956, as amended, and as interpreted and implemented by the Board of Governors of the Federal Reserve System, whether pursuant to interpretation, regulation or otherwise.

"**BHC Member**" has the meaning set forth in Section 8.8.

"**BHC Recalculation Date**" has the meaning set forth in Section 8.8.

"**Capital Contribution(s)**" means, with respect to any Member, or all of the Members, all cash and properties contributed to the Company pursuant to Section 3.1.1 of this Agreement net of liabilities assumed or taken subject to by the Company.

"**Capital Expenditures**" means expenditures for items that are capital in nature, including, but not limited to, tenant improvements, leasing commissions, and major repairs, made at the sole and absolute discretion of the Manager.

"**Cash from Operations**" means the net cash realized by the Company from all sources, including, but not limited to, the operations of the Company including the sale, financing, refinancing or other disposition of the Contributed Property, after payment of all cash expenditures of the Company, including, but not limited to, all operating expenses including all fees payable to the Manager or its Affiliates, all payments of principal and interest on indebtedness, and such reserves and retentions as the Manager reasonably determines to be necessary and desirable in connection with Company operations with its then existing assets and any anticipated acquisitions.

"**Cash Redemption Fee**" has the meaning set forth in Section 10.7.1.

"**Cash Value**" has the meaning set forth in Section 10.7.1.

"**Certificate of Cancellation**" means the Certificate of Cancellation of the Company as filed with the Secretary of State of Delaware.

"**Certificate of Formation**" means the Certificate of Formation of the Company as filed with the Secretary of State of Delaware as the same may be amended or restated from time to time.

"**Code**" means the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequently enacted federal revenue laws.

"**Company**" means FREX DB Series I Springing LLC.

"**Contributed Property**" means all of the Trust's right, title, and interest in and to the Property, the Lease, as applicable, and any and all other property and assets (whether tangible or intangible) in which the Trust at any time has any right, title or interest, contributed by the Trust pursuant to the Transfer Distribution, and all of which are or will be acquired by the Company in connection with the formation of the Company.

"**Creditors Rights Laws**" means any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"**Debt**" means the outstanding principal amount set forth in, and evidenced by, the Loan Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, the Loan Agreement or the other Loan Documents, including, without limitation, the payment of all sums advanced and costs and expenses incurred (including unpaid or unreimbursed servicing and special servicing fees) by Lender in connection with the enforcement and/or collection of the Debt or any part thereof.

"**Debt Service**" means, with respect to any particular period of time, scheduled principal and/or interest payments under the Loan.

"**Delaware Trustee**" means The Corporation Trust Company.

"**Dissolution Event**" means with respect to the Manager one or more of the following: the death, insanity, withdrawal, retirement, resignation, expulsion, Event of Insolvency or dissolution (unless reconstituted by the Manager) of the Manager unless the Members consent to continue the business of the Company pursuant to Section 12.1.4.

"**Distributable Cash**" means Cash from Operations and Capital Contributions determined by the Manager to be available for Distribution to the Members.

"**Distribution**" shall refer to any money or other property transferred without consideration (other than repurchased Units) to Members with respect to their interests or Units in the Company, but shall not include any payments to the Manager pursuant to Section 6.

"**Divide**" means to effectuate a Division.

"**Division**" means, as to any Person, such Person dividing and/or otherwise engaging in and/or becoming subject to, in each case, any division (whether pursuant to a plan of division or otherwise), including, without limitation and to the extent applicable, pursuant to §18-217 of the Delaware Limited Liability Company Act, 6 Del. C. §18-101, *et seq*.

"**Economic Interest**" means an interest in the income, loss and Distributions of the Company but shall not include any right to vote or to participate in the management of the Company.

"**EE Unit Notice**" has the meaning set forth in Section 10.7.2.

"**EE Units**" has the meaning set forth in Section 10.7.1.

"**Event of Insolvency**" shall occur when an order for relief against the Manager is entered under Chapter 7 of the federal bankruptcy law, or (A) the Manager: (1) makes a general assignment for the benefit of creditors, (2) files a voluntary petition under the federal bankruptcy law, (3) files a petition or answer seeking for that Manager a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, (4) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Manager in any proceeding of this nature, or (5) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of that Manager or of all or a substantial part of that Manager's properties, or (B) the expiration of sixty (60) days after either (1) the commencement of any proceeding against the Manager seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law, or regulation, if the proceeding has not been dismissed, or (2) the appointment without the Manager's consent or acquiescence of a trustee, receiver, or liquidator of the Manager or of all or any substantial part of the Manager's properties, if the appointment has not been vacated or stayed (or if within sixty (60) days after the expiration of any such stay, the appointment is not vacated).

"**Exchange**" has the meaning set forth in Section 10.7.1.

"**Exchange Entity**" has the meaning set forth in Section 10.7.1.

"**FMV Option**" has the meaning set for in Section 10.7.1.

"**Governmental Authority**" means any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (foreign, federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"**Indebtedness**" means, for any Person, without duplication: (i) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person is or its assets are liable, (ii) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable if such amounts were advanced thereunder, (iii) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such Person, directly or indirectly, (v) all obligations under leases that constitute capital leases for which such Person is liable, (vi) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss, (vii) any property-assessed clean energy loans or similar

indebtedness, including, without limitation, if such loans or indebtedness are made or otherwise provided by any Governmental Authority and/or secured or repaid (directly or indirectly) by any taxes or similar assessments, and (viii) any other similar amounts.

"**Independent Director**" has the meaning set forth in Section 7.12.1.

"**Independent Trustee**" has the meaning set forth in the preamble.

"**Initial Member**" means the Trust.

"**Lease**" means that master lease agreement entered into between the Trust and FREX DB LeaseCo Series I LLC, together with all amendments, supplements and modifications thereto.

"**Lender**" means Wells Fargo Bank, N.A., together with its successors, assigns, and transferees.

"**Limited Liability Company Interest**" means a Member's entire interest in the Company including such Member's Economic Interest and such voting and other rights and privileges that the Member may enjoy by being a Member.

"**Liquidation**" means, in respect to the Company, the earlier of the date upon which the Company is terminated under Section 708(b)(1) of the Code or the date upon which the Company ceases to be a going concern (even though it may exist for purposes of winding up its affairs, paying its debts and distributing any remaining balance to its Members), and in respect to a Member, where the Company is not in Liquidation means the date upon which occurs the termination of the Member's entire interest in the Company by means of a Distribution or the making of the last of a series of Distributions (whether or not made in more than one (1) year) to the Member by the Company.

"**Loan**" means the loan made by Lender to the Trust pursuant to the Loan Agreement.

"**Loan Agreement**" means that certain Loan Agreement dated as of the Effective Date between the Trust and Lender.

"**Loan Documents**" means the Loan Agreement, the Note, the Security Instrument, and any other documents or agreements contemplated by the foregoing or otherwise required by Lender.

"**Majority Vote**" means the vote of more than fifty percent (50.0%) of the Units entitled to vote. Members shall be entitled to cast one vote for each Unit they own, and a fractional vote for each fractional Unit they own. All Units shall be deemed to have voted FOR the proposed action unless affirmatively cast AGAINST the proposed action in a timely manner, except that votes under Sections 8.2.1 and 9.2 shall require the actual and affirmative vote of more than 50.0% of the Units to pass the proposed action.

"**Manager**" shall refer to FREX DB Series I Springing Manager LLC, a Delaware limited liability company. The term "Manager" shall also refer to any successor or additional Manager who is admitted to the Company as the Manager.

"**Member**" or "**Members**" means the persons listed on **Exhibit 2** attached hereto.

"**Member Dissolution**" has the meaning set forth in Section 12.1.

"**Non-Voting Units**" has the meaning set forth in Section 8.8.

"**Note**" means that certain Promissory Note dated as of the Effective Date in the principal amount of $35,805,000.00, made by the Trust in favor of Lender, as the same may be amended, restated, replaced, extended, renewed, supplemented, severed, split, or otherwise modified from time to time.

"**Notice of FMV Option**" has the meaning set forth in Section 10.7.2.

"**Option Holder**" means the Manager, its Affiliates, successors or assigns.

"**Organization Expenses**" means all expenses incurred in connection with the organization and formation of the Company, including but not limited to legal and accounting fees, tax planning fees, promotional fees or expenses, filing and recording fees and other costs or expenses incurred in connection therewith.

"**Partnership Representative**" means the "partnership representative" as said term is used in Section 6223(a) of the Code. The Partnership Representative shall be the Manager until such time as a new Partnership Representative is selected by the Company.

"**Permitted Indebtedness**" means (i) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (A) unsecured, (B) not evidenced by a note, (C) on commercially reasonable terms and conditions, and (D) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and (ii) Permitted Equipment Leases (as defined in the Loan Documents); *provided*, *however*, the aggregate amount of the indebtedness described in (i) and (ii) shall not exceed at any time two percent (2%) of the outstanding principal amount of the Debt.

"**Person**" means a natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank trust company, land trust, business trust, statutory trust or other organization, whether or not a legal entity, and a government or agency or political subdivision thereof.

"**Personal Property**" has the meaning set forth in the granting clause of the Security Instrument.

"**Prime Rate**" means the reference rate announced from time-to-time by the Wall Street Journal, and changes in the Prime Rate shall be deemed to occur on the date that changes in such rate are announced.

"**Property**" means the real estate assets, as identified on **Exhibit 3** attached hereto.

"**Receipt Date**" has the meaning set forth in Section 10.7.3.

"**Records of Ownership**" means the records maintained by the Manager, or a third party recordkeeping service provider engaged to maintain such records, indicating from time to time the name, mailing address, and the number of Units of each Member, and shall be revised by the Manager contemporaneously to reflect the issuance of additional Units in accordance with this Agreement, changes in mailing addresses, or other changes.

"**Security Instrument**" means that certain first priority Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the Effective Date, executed and delivered by the Trust as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"**Special Member**" has the meaning set forth in Section 7.11.1.

"**Sponsor**" means Fortress Real Estate Exchange LLC, a Delaware limited liability company.

"**Substituted Member**" means any person admitted as a substituted Member pursuant to this Agreement.

"**Tax Payment**" has the meaning set forth in Section 4.6.1.

"**Transfer Date**" means the date the Contributed Property is contributed to the Company pursuant to Section 8.2 of the Trust Agreement.

"**Transfer Distribution**" has the meaning set forth in Section 8.2 of the Trust Agreement.

"**Trust**" means FREX DB Series I DST, that certain Delaware statutory trust formed by and in accordance with, and governed by, the Trust Agreement.

"**Trust Agreement**" means that certain Amended and Restated Trust Agreement dated as of March 11, 2026 by and among FREX DB Depositor Series I LLC, as Depositor, FREX Manager Series I LLC, as Manager, The Corporation Trust Company, as co-trustee, and Steven P. Zimmer as independent trustee.

"**Trust Estate**" means all of the Trust's right, title, and interest in and to the Property, the Lease and any and all other property and assets (whether tangible or intangible) in which the Trust at any time has any right, title or interest, held by the Trust prior to the Transfer Distribution.

"**Trustee**" means the person serving, at the time of determination, as a trustee under the Trust.

"**Unit**" shall represent an interest in the Company entitling the owner of the Unit if admitted as a Member or Manager to the respective voting and other rights afforded to a Member holding a Unit, and affording to such Member's share in income, loss and Distributions as provided for in this Agreement. The Units shall consist of ten thousand (10,000) Units held by the Members.

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EXHIBIT 2
Members

(prior Beneficial Owners under the Trust Agreement)

Name	**Address**	**Percentage Interest in the Trust**	**Number of Units**
_____	_____ _____ _____ _____	_____**%**	_____ **Units**

EXHIBIT 3
Property

PARCEL 1:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GRANVILLE CORPORATION, COUNTY OF MONONGALIA, STATE OF WEST VIRGINIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 8, OF THE UNIVERSITY TOWN CENTRE DEVELOPMENT, A MAP OR PLAT OF SAID DEVELOPMENT, BEING OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, IN PLAT CABINET 3, ENVELOPE 100-B, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1308/PG 21), TAX MAP 8, PARCEL 1.11; THENCE WITH SAID TRACT 8, NORTH 36°23'54" WEST 452.83 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 38°11'46" WEST 66.37 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET) IN THE SOUTHERN LINE AND AT THE END OF MOUNTAINEER DRIVE, STANDING AS A CORNER TO SAID TRACT 8; THENCE LEAVING SAID TRACT 8 AND WITH THE END OF SAID MOUNTAINEER DRIVE FOR A PARTIAL LINE AND CONTINUING WITH TRACT 9 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 468), TAX MAP 8, PARCEL 1.12, NORTH 38°11'46" WEST 176.05 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 67°32'28" WEST 52.51 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER MON-VIEW DEVELOPMENT (DB 1254/PG 452), TAX MAP 8, PARCEL 1 AND SAID TRACT 9; THENCE LEAVING SAID TRACT 9 AND WITH SAID MON-VIEW DEVELOPMENT, NORTH 46°32'47" WEST 571.68 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°09'33" WEST 52.59 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING IN THE LINE OF OTHER LANDS OF SAID MON-VIEW DEVELOPMENT, LLC (DB 1306/PG 176), TAX MAP 8, PART OF PARCEL 1 AND AS A CORNER TO NOW OR FORMER TOWN OF GRANVILLE (DB 1302/PG 517), TAX MAP 8, PARCEL 1.2; THENCE LEAVING SAID MON-VIEW DEVELOPMENT AND WITH SAID TOWN OF GRANVILLE, NORTH 53°31'50" EAST 38.07 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 17°30'21" EAST 169.96 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 08°56'15" WEST 112.73 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER BOJAN, LLC (DB 1177/PG 232), TAX MAP 15, PART OF PARCEL 18 AND SAID TOWN OF GRANVILLE; THENCE LEAVING SAID TOWN OF GRANVILLE AND WITH SAID BOJAN NORTH 79°25'10" EAST 429.46 FEET TO A 5/8-INCH CAPPED IRON ROD (FOUND), STANDING AS A CORNER TO NOW OR FORMER STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL II, (DB 434/PG 1), TAX MAP 15, PARCEL 20; THENCE LEAVING SAID BOJAN AND WITH SAID STATE ROAD COMMISSION NORTH 79°51'27" EAST 962.61 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 21°47'47" EAST 270.90 FEET TO A POINT, STANDING AS A CORNER TO LOT 26 OF HACKNEY ADDITION TO RANDALL, NOW OR FORMERLY OWNED BY SAID STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL I, (DB 434/PG 1), TAX MAP 15B, PARCEL 83; THENCE WITH LOTS OF SAID HACKNEY ADDITION (STATE ROAD COMMISSION) SOUTH 82°06'32" EAST 491.91 FEET TO A POINT, STANDING AS A CORNER TO LOTS 23 AND 22 OF HACKNEY ADDITION; THENCE WITH SAID LOTS 23 AND 22 NORTH 07°55'19" EAST 381.28 FEET TO A POINT IN THE SOUTHERN RIGHT OF WAY LINE OF US ROUTE 19 AND WEST VIRGINIA ROUTE 7, STANDING AS A CORNER TO SAID STATE ROAD COMMISSION; THENCE LEAVING SAID STATE ROAD COMMISSION AND WITH RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND LOT 22 OF SAID HACKNEY ADDITION SOUTH 74°20'40" EAST 162.38 FEET TO A POINT IN THE WESTERN LINE OF THE NORFOLK AND SOUTHERN RAILROAD (FORMERLY THE MONONGAHELA

RAILROAD COMPANY), 60 FEET RIGHT OF AND RIGHT ANGLE TO CENTERLINE OF SAID NORFOLK AND SOUTHERN RAILROAD; THENCE LEAVING RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND WITH SAID NORFOLK AND SOUTHERN RAILROAD, A LINE 60 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 599.78 FEET TO A POINT; THENCE SOUTH 86°33'10" EAST 25.00 FEET TO A POINT 35 FEET FROM CENTERLINE; THENCE WITH A LINE 35 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 565.00 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4442.46 FEET, A LINE 35 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 839.1 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 10°49'49" TO A POINT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 01°58'05" EAST 838.48 FEET; THENCE SOUTH 71°39'50" WEST 15.28 FEET TO A POINT 50 FEET FROM SAID CENTERLINE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4457.46 FEET, A LINE 50 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 437.99 FEET TO A POINT, STANDING AS A CORNER TO NOW OR FORMER CONSOLIDATION COAL COMPANY (DB 653/PG 403), TAX MAP 9, PARCEL 2, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 10°14'08" EAST 437.83 FEET; THENCE LEAVING SAID NORFOLK AND SOUTHERN RAILROAD AND WITH SAID CONSOLIDATION COAL COMPANY SOUTH 85°25'00" WEST 184.03 FEET TO A POINT; THENCE SOUTH 02°42'13" WEST 585.63 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°21'02" WEST 198.97 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 54°45'19" WEST 640.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°54'18" WEST 327.39 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 5 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY TARGET CORPORATION (DB 1254/PG 546), TAX MAP 8, PARCEL 1.5 AND SAID CONSOLIDATION COAL COMPANY; THENCE LEAVING SAID CONSOLIDATION COAL COMPANY AND WITH SAID TRACT 5 NORTH 17°25'35" WEST 68.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 47°01'17" WEST 138.35 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 62°12'34" WEST 113.66 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 6, OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 676), TAX MAP 8, PARCEL 1.7 AND SAID TRACT 5; THENCE LEAVING SAID TRACT 5 AND WITH SAID TRACT 6 NORTH 62°12'34" WEST 280.90 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°12'16" WEST 36.47 FEET TO A POINT; THENCE NORTH 12°33'18" WEST 89.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 24°32'26" WEST 83.15 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 33°30'03" WEST 60.70 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO SAID TRACT 8 OF SAID UNIVERSITY TOWN CENTRE AND SAID TRACT 6; THENCE LEAVING SAID TRACT 6 AND WITH SAID TRACT 8 NORTH 68°57'41" EAST 143.76 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 40°29'27" EAST 163.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 69°12'18" EAST 246.34 FEET TO THE PLACE OF BEGINNING, CONTAINING 93.61 ACRES, MORE OR LESS, AS SURVEYED IN JUNE THROUGH AUGUST, 2007, AND UPDATED OCTOBER, 2012, BY TRIAD ENGINEERING, INC., OF MORGANTOWN, WEST VIRGINIA, AND SHOWN ON SHEET C-2 OF THIS ALTA/ACSM LAND TITLE SURVEY FOR FAIRFIELD GRANVILLE EXCHANGE, LLC. THE MERIDIAN FOR ALL BEARINGS IN THIS DESCRIPTION IS BASED ON MON - VIEW DEVELOPMENT "PROJECT NORTH".

PARCEL 2: [EASEMENT]

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO TIE ONTO OR CONNECT TO THE STORM WATER DRAINAGE SYSTEM, EXISTING AS OF JUNE 5, 2003, AND LOCATED WITHIN THE LANDS ACQUIRED BY BOJAN, LLC BY DEED DATED OCTOBER 15, 1998 AND RECORDED IN THE

CLERK'S OFFICE OF MONONGALIA COUNTY, WEST VIRGINIA, IN DEED BOOK 1177, PAGE 232, TOGETHER WITH THE RIGHT TO DISCHARGE INTO SAID STORM WATER SYSTEM, AS MORE PARTICULARLY SET FORTH WITHIN THAT CERTAIN DEED DATED JUNE 5, 2003, BY AND BETWEEN BOJAN, LLC AND MON-VIEW, LLC, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1254, PAGE 445, AND AS REAFFIRMED WITHIN THAT CERTAIN INTERPARTIES AGREEMENT DATED JUNE 5, 2003 AND RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 1254, PAGE 496.

PARCEL 3: [EASEMENT]

TOGETHER WITH AN EASEMENT FOR THE PURPOSES OF (I) DESIGNING, CONSTRUCTING, OPERATING AND MAINTAINING A DRAINAGE CHANNEL FOR THE CONVEYANCE OF SURFACE WATER AND STORM WATER RUNOFF FROM PARCEL 1 ACROSS ADJACENT LAND TO A COLLECTION AND TREATMENT POND AND (II) THE DISCHARGE OF SURFACE WATER AND STORM WATER INTO SAID TREATMENT POND, AS MORE PARTICULARLY DESCRIBED WITHIN THAT CERTAIN DRAINAGE EASEMENT DATED MAY 1, 2008, BY AND BETWEEN MON-VIEW, LLC AND FAIRFIELD GRANVILLE EXCHANGE, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1366, PAGE 125. BEING THE SAME REAL ESTATE CONVEYED TO CPI-GREP DOMAIN OWNER, L.L.C. FROM DTC BORROWER, LLC BY DEED DATED JULY 2, 2018, OF RECORD IN DEED BOOK 1636, AT PAGE 48.

NOTE: THE ABOVE APPURTENANT PARCEL 2: [EASEMENT] AND PARCEL 3: [EASEMENT] ARE CONTIGUOUS TO PARCEL 1.

EXHIBIT 4
Notice of FMV Option

In accordance with Section 10.7.1 of the Limited Liability Company Agreement (the "**Agreement**") of FREX DB Series I Springing LLC (the "**Company**") the undersigned hereby irrevocably requires _____ (the "**Investor**") to exchange its _____% interest in the Company, in accordance with the terms of the Agreement and the FMV Option referred to in Section 10.7.1 thereof, for (a) the Cash Value (as defined in the Agreement) equal to the fair market value of the Investor's interest in the Company or (b) EE Units (as defined in the Agreement) in an amount equal to the fair market value of the Investor's interest in the Company, *provided*, *however*, that the Investor must notify the undersigned in writing (the "**Unit Notice**") within twenty (20) business days of the date of this Notice of FMV Option should the Investor desire to receive EE Units from one or more Exchange Entities (as defined in the Agreement) rather than the Cash Value. Should the Investor not provide the undersigned with a Unit Notice within twenty (20) business days of the date of this Notice of FMV Option, the Investor shall be deemed to have elected to receive the Cash Value in exchange for the Investor's interest in the Company. The undersigned shall deliver the Cash Value or EE Units, whichever is applicable, to the Investor in accordance with the terms of Section 10.7.3 of the Agreement and to the address specified in Section 1.2 of the Agreement.

Dated: _____, 20____

FREX DB SERIES I SPRINGING MANAGER LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT G
Notice of FMV Option

In accordance with Section 10.1 of the Amended and Restated Trust Agreement (the "**Agreement**") of FREX DB Series I DST (the "**Trust**"), the undersigned hereby exercises its FMV Option under Section 10.1 of the Agreement in relation to _____ (the "**Investor**") and its _____% interest in the Trust. The Investor shall, within twenty (20) business days of the date of this Notice of FMV Option, notify the undersigned in writing that, pursuant to the terms of Section 10.2 of the Agreement, if the Investor is exercising its right to receive Units (as defined in the Agreement) from one or more Exchange Entities (as defined in the Agreement), instead of the Cash Value (as defined in the Agreement) for the Investor's interest in the Trust ("**Interest**"). Should the Investor not provide the undersigned with a Unit Notice (as defined in the Agreement) within twenty (20) business days of the date of this Notice of FMV Option, the Investor shall be deemed to have elected to receive the Cash Value (as defined in the Agreement) in exchange for the Investor's Interest and all rights, title and interest in the Trust. The undersigned shall deliver the Cash Value or Units, whichever, if either, is applicable, to the Investor in accordance with the terms of Section 10.3 of the Agreement and to the address specified in **Exhibit D** of the Agreement.

Dated: _____, 20____

FREX MANAGER SERIES I LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT H
Form of Conversion Notice

FREX DB Depositor Series I LLC, as the Depositor and sole Class 2 Beneficial Owner and the sole holder of the Class 2 Beneficial Ownership Certificates in FREX DB Series I DST, hereby provides a Conversion Notice pursuant to Section 6.12 of the Amended and Restated Trust Agreement dated as of March 11, 2026.

Date: _____

FREX DB DEPOSITOR SERIES I LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT C

ASSET MANAGEMENT AGREEMENT

[ATTACHED]

ASSET MANAGEMENT AGREEMENT

THIS ASSET MANAGEMENT AGREEMENT (the "**Agreement**") is made as of March 11, 2026 (the "**Effective Date**") by and between FREX DB Series I DST, a Delaware statutory trust (the "**Trust**") and FREX Manager Series I LLC, a Delaware limited liability company (the "**Asset Manager**").

RECITALS

A. The Trust is or is to become the owner of a residential student housing facility described on **Exhibit A** attached hereto (the "**Property**").

B. FREX DB LeaseCo Series I LLC, the master tenant of the Property, has or shall enter into a property management agreement (the "**Property Management Agreement**") with GREP Atlantic, LLC, a Delaware limited liability company (the "**Property Manager**") pursuant to which the Property Manager shall manage and operate the Property.

C. The Trust desires to engage the Asset Manager to provide certain management services and oversee the performance of the Property Manager, and the Asset Manager has agreed to accept such engagement, on the terms and conditions set forth below.

IN LIGHT OF THE FOREGOING FACTS, and in consideration of the mutual agreements contained herein, Trust and Asset Manager hereby agree as follows:

ARTICLE I
APPOINTMENT AND TERM

1.1 Appointment.

The Trust hereby engages the Asset Manager, and the Asset Manager hereby accepts the engagement, to provide asset management services for the Property in accordance with the terms of this Agreement. The Asset Manager shall perform its services in a competent manner in accordance with this Agreement and shall fully and faithfully discharge its obligations and responsibilities hereunder and shall devote such time and attention to ensure the full, prompt and professional discharge of its duties under this Agreement.

1.2 Term.

The term (the "**Term**") of this Agreement shall commence on the date the Trust acquires record title to the Property and shall continue until this Agreement is terminated as provided herein. Notwithstanding this Section 1.2, in the event of a sale, exchange or other disposition of the Property by the Trust, the Trust may terminate this Agreement upon not less than thirty (30) days' written notice to the Asset Manager.

1.3 Relationship.

The Asset Manager shall not acquire title to, any security interest in, or any rights of any kind in or to the Property (or any income, receipts or revenues therefrom). For purposes of this Agreement, the Asset Manager shall be an independent contractor of the Trust and not an agent, employee, partner or joint venturer of the Trust and nothing in this Agreement shall be deemed or construed to create such a relationship between the parties hereto and the services other than an independent contractor. Under no circumstances shall the Asset Manager represent or hold itself out to any third party as an agent of the Trust.

ARTICLE II
DUTIES AND POWERS OF THE ASSET MANAGER

2.1 Duties and Powers.

The Asset Manager shall provide management services to the Trust with respect to the Property, shall arrange for financing of the Property, implement all decisions and policies of the Trust and shall oversee and supervise the provision of services by the Property Manager to ensure that the Property Manager is performing in a manner consistent with the terms of the Property Management Agreement; *provided*, that, for the avoidance of doubt and subject to applicable law, the Asset Manager and its Affiliates may provide any services contemplated hereunder to the Trust or the Beneficial Owners (as defined in the Trust's Amended and Restated Trust Agreement dated on or about even herewith (the "**Trust Agreement**")) in lieu of engaging a third party provider to deliver such services so long as the compensation received by the Asset Manager and/or its Affiliates, as applicable, does not exceed the applicable compensation provided for hereunder; *provided*, *further*, that any such services are reflected in a budget, as may be amended and supplemented, provided by the Asset Manager and approved by the Trust, or as may otherwise be approved by the Trust.

ARTICLE III
COMPENSATION

3.1 Reimbursements.

During the Term of this Agreement, the Trust shall reimburse the Asset Manager for all reasonable, out-of-pocket expenses (including reasonable travel and incidental costs) properly incurred by the Asset Manager in performing its services under this Agreement; *provided* that the same are reflected in a budget provided by the Property Manager or provided by the Asset Manager and approved by the Trust, or as may otherwise be approved by the Trust.

3.2 Asset Management Fee.

During the Term of this Agreement, the Trust shall cause to be paid to the Asset Manager an annual asset management fee equal to 1% of the Trust's effective gross revenue, pro-rated for any partial year (the "**Asset Management Fee**"). The Asset Management Fee shall be paid monthly in arrears on a *pro rata* basis, and if the Agreement is terminated during any calendar year, shall be prorated for such partial year. The Asset Manager shall have the right to elect to temporarily or permanently waive or defer all or a portion of the Asset Management Fee that would otherwise be paid to it. Any portion of a deferred fee payable to the Asset Manager and not paid over to the Asset Manager with respect to any month or year shall be deferred without interest and may be paid over in any such other month, in the discretion of the Asset Manager, prior to the termination of this Agreement.

Notwithstanding anything in the Agreement to the contrary, so long as (a) any indebtedness is outstanding under the loan documentation executed and delivered on behalf of the Trust (the "**Loan Documents**") to the holder of any mortgage, deed of trust or other similar document placed on the Property by the Trust ("**Permitted Mortgage**"), and (b) no Event of Default (as defined in the Loan Documents) has occurred and is continuing, the Asset Management Fee and all rights and privileges of Asset Manager to the Asset Management Fees are and shall at all times continue to be subject and unconditionally subordinate in all respects in lien and payment to the lien and payment of the Loan Documents (as defined in the Trust's Private Placement Memorandum) and to any renewals, extensions, modifications, assignments, replacements, or consolidations of the Loan Documents, and the rights, privileges, and powers of lender under the Loan Documents, and subject to the debt limitations set forth in the Loan Documents. Any permitted lender under a Permitted Mortgage ("**Lender**") is intended as a third-party beneficiary of this section of this Agreement, and Trust and Asset Manager agree that if there is an Event of Default (as

defined in the Loan Documents) during the term of this Agreement, Lender may terminate the Agreement without payment of any cancellation fee or penalty.

3.3 Acquisition Fee.

In connection with the Trust's acquisition of the Property, the Asset Manager shall accrue and be entitled to receive an acquisition fee in an amount up to 1.5% of the aggregate purchase price of the Property (the "**Acquisition Fee**"). Any sales commissions due to third-party brokers shall not be paid from this amount.

3.4 Disposition Fee.

During the Term of this Agreement and upon any sale of the Property to any third party, the Trust shall cause to be paid to the Asset Manager a disposition fee in an amount up to 2.5% of the gross proceeds of any such sale of the Property (the "**Disposition Fee**") in connection with the closing on such sale of the Property to a third party; *provided*, *however*, for the avoidance of doubt, no Disposition Fee shall be charged in connection with the same transaction for which the Asset Manager or its affiliates receive a Cash Redemption Fee (as defined in Article 10 of the Trust Agreement) or the Beneficial Owners (as defined in the Trust Agreement) receive Units (as defined in the Trust Agreement) in lieu of cash pursuant to any exercise of the FVM Option under the Trust Agreement; *provided*, *further*, that the Asset Manager may reallow a portion of the Disposition Fee to one or more third parties in its sole and absolute discretion; *provided*, *finally*, that no amounts constituting a Disposition Fee shall be charged unless and until, at the time of the contemplated disposition of the Property, the Beneficial Owners (as defined in the Trust Agreement) of the Trust have received a 1.0x multiple on invested capital (including cashflow) in connection with their initial investment in the Trust. Any sales commissions due to third-party brokers shall not be paid from this amount.

3.5 Financing Fee.

In connection with the Trust's acquisition of the Property, the Asset Manager shall accrue and be entitled to receive a financing fee in an amount up to 0% of the gross proceeds of the loan evidenced by the Loan Documents (the "**Financing Fee**"). Any sales commissions due to third-party brokers shall not be paid from this amount.

ARTICLE IV
INDEMNIFICATION

4.1 Indemnification.

The Trust agrees to indemnify the Asset Manager and hold it harmless from and against all claims, losses, actions, lawsuits and other liabilities arising directly or indirectly out of any action taken by the Asset Manager within the scope of its authority and duties under this Agreement, excluding only those liabilities which arise as a result of the willful misconduct, bad faith, fraud or gross negligence of the Asset Manager in the performance of its duties under this Agreement. This indemnity extends to and protects the agents, officers, directors, shareholders, affiliated companies and employees of the Asset Manager.

The Asset Manager agrees to indemnify the Trust and hold it harmless from and against all claims, losses, actions, lawsuits and other liabilities arising directly or indirectly out of any action taken by the Asset Manager that is not within the scope of its authority and duties under this Agreement and constitutes the willful misconduct, bad faith, fraud or gross negligence of the Asset Manager in the performance of its duties under this Agreement. This indemnity extends to and protects the agents, officers, directors, shareholders, affiliated companies and employees of the Trust.

ARTICLE V
GENERAL PROVISIONS

5.1 Default of Asset Manager.

The Trust shall be entitled to terminate this Agreement if the Asset Manager is in material default of its obligations under this Agreement and such default is not remedied within thirty (30) days after the Asset Manager has received written notice from the Trust specifying that the Asset Manager is in material default, identifying the nature of the material default and outlining the steps required to be taken in order to remedy such default. Where the default is of such nature that it is incapable of being remedied within the thirty (30)-day period, then the time for curing the default shall be extended for such period of time as is reasonably necessary under the circumstances so long as the Asset Manager has commenced the cure during the initial thirty (30)-day period and is diligently pursuing the completion of same.

5.2 Default of Trust.

The Asset Manager shall be entitled to terminate this Agreement if the Trust is in default of its obligations under this Agreement and the default is not remedied within thirty (30) days after the Trust has received written notice from the Asset Manager specifying that the Trust is in default, identifying the nature of the default and outlining the steps required to be taken in order to remedy such default. Where the default is of such nature that it is incapable of being remedied within the thirty (30)-day period, then the time for curing the default shall be extended for such period of time as is reasonably necessary under the circumstances so long as the Trust has commenced the cure during the initial thirty (30)-day period and is diligently pursuing the completion of same.

5.3 Assignment.

Neither party shall be entitled to assign this Agreement to any other party without the written consent of the other.

5.4 Notices.

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given or delivered (a) when delivered personally or by commercial messenger; (b) one business day after deposit with a recognized overnight delivery service, *provided* such deposit occurs prior to the deadline imposed by such service for overnight delivery; or (c) when transmitted by facsimile, *provided* confirmation of receipt is received by sender and such notice is sent by an additional method provided hereunder, in each case provided such communication is addressed to the intended recipient thereof as set forth below:

If to the Trust:

FREX DB Series I DST
c/o FREX Manager Series I LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: David Hammerman (dhammerman@fortress.com);
Eli Edwards (eedwards@fortress.com); and
Kerry Campelo (kcampelo@fortress.com)

If to the Asset Manager: FREX Manager Series I LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: David Hammerman (dhammerman@fortress.com);
Eli Edwards (eedwards@fortress.com); and
Kerry Campelo (kcampelo@fortress.com)

Any party may change its address specified above by giving the other party notice of such change in accordance with this Section 5.4.

5.5 Termination.

Any unperformed obligations of either the Trust or the Asset Manager shall survive the termination of this Agreement. Immediately upon the expiration or termination, the Asset Manager shall deliver all books of account and records to the Trust together with all other documents and records which pertain to the Property.

5.6 Nonwaiver.

The failure of any party to insist upon or enforce strict performance by any other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, such provision or right shall be and remain in full force and effect.

5.7 Captions.

The captions contained in this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

5.8 Applicable Law.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS. BOTH OF THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF THIS AGREEMENT. The parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the State of New York and the Federal courts of the United States of America located in New York County, New York for purposes of any suit, action or other proceeding arising from this Agreement and the Offering, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or thereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts. The parties hereto hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute.

5.9 Entire Agreement.

This Agreement supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there is no warranty, representation or any other agreement between the parties in connection with the subject matter of this Agreement. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by both parties.

5.10 Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Nothing in this Agreement is intended or shall be construed to give to any other person any right, remedy or claim, except as otherwise specifically provided herein.

5.11 Counterparts.

This Agreement may be executed in multiple counterparts, and all such counterparts together shall constitute one and the same Agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

TRUST:

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____
Name: David Hammerman
Title: Authorized Signatory

ASSET MANAGER:

FREX MANAGER SERIES I LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

EXHIBIT A
Legal Description of the Property

PARCEL 1:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GRANVILLE CORPORATION, COUNTY OF MONONGALIA, STATE OF WEST VIRGINIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 8, OF THE UNIVERSITY TOWN CENTRE DEVELOPMENT, A MAP OR PLAT OF SAID DEVELOPMENT, BEING OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, IN PLAT CABINET 3, ENVELOPE 100-B, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1308/PG 21), TAX MAP 8, PARCEL 1.11; THENCE WITH SAID TRACT 8, NORTH 36°23'54" WEST 452.83 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 38°11'46" WEST 66.37 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET) IN THE SOUTHERN LINE AND AT THE END OF MOUNTAINEER DRIVE, STANDING AS A CORNER TO SAID TRACT 8; THENCE LEAVING SAID TRACT 8 AND WITH THE END OF SAID MOUNTAINEER DRIVE FOR A PARTIAL LINE AND CONTINUING WITH TRACT 9 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 468), TAX MAP 8, PARCEL 1.12, NORTH 38°11'46" WEST 176.05 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 67°32'28" WEST 52.51 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER MON-VIEW DEVELOPMENT (DB 1254/PG 452), TAX MAP 8, PARCEL 1 AND SAID TRACT 9; THENCE LEAVING SAID TRACT 9 AND WITH SAID MON-VIEW DEVELOPMENT, NORTH 46°32'47" WEST 571.68 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°09'33" WEST 52.59 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING IN THE LINE OF OTHER LANDS OF SAID MON-VIEW DEVELOPMENT, LLC (DB 1306/PG 176), TAX MAP 8, PART OF PARCEL 1 AND AS A CORNER TO NOW OR FORMER TOWN OF GRANVILLE (DB 1302/PG 517), TAX MAP 8, PARCEL 1.2; THENCE LEAVING SAID MON-VIEW DEVELOPMENT AND WITH SAID TOWN OF GRANVILLE, NORTH 53°31'50" EAST 38.07 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 17°30'21" EAST 169.96 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 08°56'15" WEST 112.73 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER BOJAN, LLC (DB 1177/PG 232), TAX MAP 15, PART OF PARCEL 18 AND SAID TOWN OF GRANVILLE; THENCE LEAVING SAID TOWN OF GRANVILLE AND WITH SAID BOJAN NORTH 79°25'10" EAST 429.46 FEET TO A 5/8-INCH CAPPED IRON ROD (FOUND), STANDING AS A CORNER TO NOW OR FORMER STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL II, (DB 434/PG 1), TAX MAP 15, PARCEL 20; THENCE LEAVING SAID BOJAN AND WITH SAID STATE ROAD COMMISSION NORTH 79°51'27" EAST 962.61 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 21°47'47" EAST 270.90 FEET TO A POINT, STANDING AS A CORNER TO LOT 26 OF HACKNEY ADDITION TO RANDALL, NOW OR FORMERLY OWNED BY SAID STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL I, (DB 434/PG 1), TAX MAP 15B, PARCEL 83; THENCE WITH LOTS OF SAID HACKNEY ADDITION (STATE ROAD COMMISSION) SOUTH 82°06'32" EAST 491.91 FEET TO A POINT, STANDING AS A CORNER TO LOTS 23 AND 22 OF HACKNEY ADDITION; THENCE WITH SAID LOTS 23 AND 22 NORTH 07°55'19" EAST 381.28 FEET TO A POINT IN THE SOUTHERN RIGHT OF WAY LINE OF US ROUTE 19 AND WEST VIRGINIA ROUTE 7, STANDING AS A CORNER TO SAID STATE ROAD COMMISSION; THENCE LEAVING SAID STATE ROAD COMMISSION AND WITH RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND LOT 22 OF SAID HACKNEY ADDITION SOUTH 74°20'40" EAST 162.38 FEET TO A POINT IN THE

WESTERN LINE OF THE NORFOLK AND SOUTHERN RAILROAD (FORMERLY THE MONONGAHELA RAILROAD COMPANY), 60 FEET RIGHT OF AND RIGHT ANGLE TO CENTERLINE OF SAID NORFOLK AND SOUTHERN RAILROAD; THENCE LEAVING RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND WITH SAID NORFOLK AND SOUTHERN RAILROAD, A LINE 60 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 599.78 FEET TO A POINT; THENCE SOUTH 86°33'10" EAST 25.00 FEET TO A POINT 35 FEET FROM CENTERLINE; THENCE WITH A LINE 35 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 565.00 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4442.46 FEET, A LINE 35 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 839.1 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 10°49'49" TO A POINT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 01°58'05" EAST 838.48 FEET; THENCE SOUTH 71°39'50" WEST 15.28 FEET TO A POINT 50 FEET FROM SAID CENTERLINE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4457.46 FEET, A LINE 50 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 437.99 FEET TO A POINT, STANDING AS A CORNER TO NOW OR FORMER CONSOLIDATION COAL COMPANY (DB 653/PG 403), TAX MAP 9, PARCEL 2, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 10°14'08" EAST 437.83 FEET; THENCE LEAVING SAID NORFOLK AND SOUTHERN RAILROAD AND WITH SAID CONSOLIDATION COAL COMPANY SOUTH 85°25'00" WEST 184.03 FEET TO A POINT; THENCE SOUTH 02°42'13" WEST 585.63 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°21'02" WEST 198.97 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 54°45'19" WEST 640.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°54'18" WEST 327.39 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 5 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY TARGET CORPORATION (DB 1254/PG 546), TAX MAP 8, PARCEL 1.5 AND SAID CONSOLIDATION COAL COMPANY; THENCE LEAVING SAID CONSOLIDATION COAL COMPANY AND WITH SAID TRACT 5 NORTH 17°25'35" WEST 68.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 47°01'17" WEST 138.35 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 62°12'34" WEST 113.66 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 6, OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 676), TAX MAP 8, PARCEL 1.7 AND SAID TRACT 5; THENCE LEAVING SAID TRACT 5 AND WITH SAID TRACT 6 NORTH 62°12'34" WEST 280.90 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°12'16" WEST 36.47 FEET TO A POINT; THENCE NORTH 12°33'18" WEST 89.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 24°32'26" WEST 83.15 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 33°30'03" WEST 60.70 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO SAID TRACT 8 OF SAID UNIVERSITY TOWN CENTRE AND SAID TRACT 6; THENCE LEAVING SAID TRACT 6 AND WITH SAID TRACT 8 NORTH 68°57'41" EAST 143.76 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 40°29'27" EAST 163.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 69°12'18" EAST 246.34 FEET TO THE PLACE OF BEGINNING, CONTAINING 93.61 ACRES, MORE OR LESS, AS SURVEYED IN JUNE THROUGH AUGUST, 2007, AND UPDATED OCTOBER, 2012, BY TRIAD ENGINEERING, INC., OF MORGANTOWN, WEST VIRGINIA, AND SHOWN ON SHEET C-2 OF THIS ALTA/ACSM LAND TITLE SURVEY FOR FAIRFIELD GRANVILLE EXCHANGE, LLC. THE MERIDIAN FOR ALL BEARINGS IN THIS DESCRIPTION IS BASED ON MON - VIEW DEVELOPMENT "PROJECT NORTH".

PARCEL 2: [EASEMENT]

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO TIE ONTO OR CONNECT TO THE STORM WATER DRAINAGE SYSTEM, EXISTING AS OF JUNE 5, 2003, AND LOCATED WITHIN THE LANDS ACQUIRED BY BOJAN, LLC BY DEED DATED OCTOBER 15, 1998 AND RECORDED IN THE CLERK'S OFFICE OF MONONGALIA COUNTY, WEST VIRGINIA, IN DEED BOOK 1177, PAGE 232, TOGETHER WITH THE RIGHT TO DISCHARGE INTO SAID STORM WATER SYSTEM, AS MORE PARTICULARLY SET FORTH WITHIN THAT CERTAIN DEED DATED JUNE 5, 2003, BY AND BETWEEN BOJAN, LLC AND MON-VIEW, LLC, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1254, PAGE 445, AND AS REAFFIRMED WITHIN THAT CERTAIN INTERPARTIES AGREEMENT DATED JUNE 5, 2003 AND RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 1254, PAGE 496.

PARCEL 3: [EASEMENT]

TOGETHER WITH AN EASEMENT FOR THE PURPOSES OF (I) DESIGNING, CONSTRUCTING, OPERATING AND MAINTAINING A DRAINAGE CHANNEL FOR THE CONVEYANCE OF SURFACE WATER AND STORM WATER RUNOFF FROM PARCEL 1 ACROSS ADJACENT LAND TO A COLLECTION AND TREATMENT POND AND (II) THE DISCHARGE OF SURFACE WATER AND STORM WATER INTO SAID TREATMENT POND, AS MORE PARTICULARLY DESCRIBED WITHIN THAT CERTAIN DRAINAGE EASEMENT DATED MAY 1, 2008, BY AND BETWEEN MON-VIEW, LLC AND FAIRFIELD GRANVILLE EXCHANGE, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1366, PAGE 125. BEING THE SAME REAL ESTATE CONVEYED TO CPI-GREP DOMAIN OWNER, L.L.C. FROM DTC BORROWER, LLC BY DEED DATED JULY 2, 2018, OF RECORD IN DEED BOOK 1636, AT PAGE 48.

NOTE: THE ABOVE APPURTENANT PARCEL 2: [EASEMENT] AND PARCEL 3: [EASEMENT] ARE CONTIGUOUS TO PARCEL 1.

EXHIBIT D

PROPERTY MANAGEMENT AGREEMENT

[ATTACHED]

PROPERTY MANAGEMENT AGREEMENT

This Property Management Agreement (this "Agreement") is made effective as of March 11, 2026 (the "Effective Date"), by and between **FREX DB LEASECO SERIES I LLC**, a Delaware limited liability company, having its principal office at c/o Fortress Credit Advisors, LLC, 1345 Avenue of the Americas, 46th Floor New York, New York 10105 (hereinafter referred to as "Master Tenant"), and **GREP ATLANTIC, LLC**, a Delaware limited liability company, having its principal office at 999 S. Shady Grove Rd Suite 600, Memphis, TN 38120 (hereinafter referred to as the "Manager").

RECITALS:

A. FREX DB Series I DST, a Delaware statutory trust ("Owner") is the owner of that certain real property located at **5000 Domain Dr, Morgantown, WV 26501,** commonly known as **Domain at Town Centre Apartments** and more particularly described on Exhibit A attached hereto (the "Real Property").

B. Owner leased the Real Property to Master Tenant pursuant to the terms of that certain Master Lease Agreement dated as of the date hereof by and between Master Tenant and Owner (the "Master Lease").

C. Master Tenant desires to appoint and hire Manager, and Manager desires to accept such appointment, to manage the Real Property, the improvements and buildings located thereon or to be located thereon, any and all fixtures, personal property, and/or other easement areas and/or other appurtenances which are now owned or hereafter acquired and are utilized in connection with the foregoing (collectively, the "Property"), all in accordance with the terms and subject to the conditions hereinafter provided.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and adequacy thereof being hereby expressly acknowledged, Master Tenant and Manager hereby agree as follows:

Article I

Engagement of Manager; Duties of Manager

1.1 Engagement. Master Tenant hereby engages the services of Manager on the terms and conditions hereinafter provided, and Manager hereby accepts such engagement, for purposes of the leasing, property management and operation of the Property.

1.2 Independent Contractor. The relationship of Manager to Master Tenant will be that of an independent contractor. Neither Manager nor any agent, employee, servant, contractor or subcontractor of Manager will be deemed to be the general agent, employee or representative of Master Tenant. Manager will have sole control and responsibility for Manager's acts for the Term. Nothing contained in this Agreement will be deemed to constitute a partnership, employer/employee, fiduciary, or joint venture relationship between Master Tenant and Manager or to cause either party to be responsible in any way for the debts or obligations of the other or any third party. Any action taken by Manager that is not expressly permitted under this Agreement will not bind or create any claim against Master Tenant.

1.3 Duties in General.

a) Subject to the express terms of this Agreement, Manager shall perform all services and discharge all obligations hereunder in an efficient, economical and business-like manner consistent with the goal of maximizing the value of the Property in accordance with the

Annual Budget (as defined below) and the terms of this Agreement. Manager shall perform and conduct its services hereunder and shall discharge all obligations hereunder diligently, with the highest ethical standards and in accordance with the standard of care of professional managers and prudent operators of similar multi-family housing properties in the metropolitan statistical area (the "MSA") in which the Property is located (the "Management Standard") and in accordance with Manager's standard operating procedures. Manager shall devote such time and staff as may be reasonably required for the efficient and timely performance of all of its obligations under this Agreement and shall perform such other services as may be reasonably requested by Master Tenant which are consistent with the obligations of Manager hereunder and which are consistent with the Management Standard.

b) Notwithstanding anything contained in this Agreement to the contrary, Manager shall not enter into any transaction, agreement or contract, verbally or in writing, with respect to the Property with any Affiliate of Manager, without (i) fully disclosing the potential engagement, affiliated relationship, and direct or indirect benefit to Master Tenant; and (ii) obtaining Master Tenant's prior written authorization to enter into such a transaction, agreement, or contract. For purposes of this Agreement, (a) "Affiliate" means, with respect to any Person, any other Person that (1) directly or indirectly owns twenty percent (20%) or more of the ownership interests in such Person or in which such Person directly or indirectly owns twenty percent (20%) or more of the ownership interests, (2) directly or indirectly Controls, is Controlled by or is under direct or indirect common Control with such Person, (3) is a director, partner, officer or employee of such Person or of an Affiliate of such Person, and/or (4) is the spouse, issue, or parent of such Person or an Affiliate of such Person; (b) "Control" means, with respect to a Person, the possession directly or indirectly of the power to direct the management and policies of such Person whether through the ownership of voting securities, by contract or otherwise; and (c) "Person" means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint-stock company, trust, unincorporated organization or other organization, whether or not a legal entity, and any governmental authority.

c) Manager shall comply with all applicable laws, and regulations applicable to Manager in the performance of its duties hereunder. Manager shall keep Master Tenant reasonably informed as to all developments and occurrences at or pertaining to the Property which materially adversely affect the operations of the Property, as and when Manager becomes aware of them.

d) Manager shall notify Master Tenant promptly after becoming aware of any cash shortage at the Property, or pending cash shortage which will result in insufficient funds in order to make all disbursements provided for under this Agreement, and Master Tenant shall determine payment priority. After Manager has paid, to the extent that cash is available and to the extent set forth in the Annual Budget, all approved expenditures for bills and charges based on the ordered priorities set by Master Tenant, Manager shall submit to Master Tenant a statement of all remaining unpaid bills, if any. Notwithstanding any other provision of this Agreement which may be to the contrary, if Master Tenant fails to deposit the amount requested by Manager in the Operating Account (defined below), Manager shall not be obligated to make any disbursement for which there are no funds. Master Tenant acknowledges and agrees that Manager's obligations to perform under this Agreement are subject to availability of adequate funds, whether provided by the Property revenues or by Master Tenant. All debts and liabilities to third parties incurred by Manager pursuant to this Agreement shall be the debts and liabilities of Master Tenant and not of Manager.

e) During the Term (as defined below) of this Agreement and subject to the provisions hereof and Master Tenant making the funds available to Manager therefor, Manager

shall perform, as an independent contractor of Master Tenant (and not as an employee of Master Tenant), the following duties and services in accordance with the Management Standard:

1) compliance with and performance of all of Master Tenant's and/or Owner's obligations (i) as landlord under leases, subleases, licenses, ground leases or concessionaire agreements with tenants of the Property (each a "Tenant" and collectively, "Tenants") affecting all or any portion of the Property (collectively, the "Leases"), and (ii) under any easements, restrictions, covenants, conditions, and similar agreements affecting the Property; provided, however, that Manager shall have no obligation to perform under this subsection (ii) unless Master Tenant has provided to Manager: (1) written notice identifying the specific obligations and requesting Manager's assistance to facilitate Master Tenant's and/or Owner's compliance and performance with such obligations, and (2) written instructions specifying in reasonable detail the particular actions that Manager is being requested to take with respect to any such obligations or requirements of Master Tenant and/or Owner, as applicable, set forth in the relevant documents relating thereto (each, a "Property Document" and collectively, the "Property Documents") and (iii) as a party to any and all Contracts (hereinafter defined), and in each case of (i), (ii), and (iii), such assistance shall be at Master Tenant's expense, subject to the provisions hereof relating to Annual Budget and provisions hereof otherwise limiting Manager's authority to incur expenses;

2) Use efforts consistent with the Management Standard to enforce the covenants and obligations of (i) Tenants under each and all of the Leases, and (ii) counterparties under Contracts (hereinafter defined); and

3) In Manager's prudent and reasonable judgment, engage legal counsel approved by Master Tenant (which may be proposed to Master Tenant by Manager) to enforce Leases and/or Contracts and notify Master Tenant of any material, non-routine action that Manager takes to enforce such Leases and/or Contracts.

Article II
Services to Be Performed by Manager

Without limiting the generality of Section 1.3 above or any other provision of this Agreement, during the Term, Manager shall have the following duties and shall perform the following services, as applicable, subject to any limitations imposed by the Annual Budget then in effect and any specific instructions from Master Tenant, and subject to the availability of funds provided by Master Tenant:

2.1 Annual Budget.

a) The initial annual operating budget for the Property for the remainder of calendar year 2026 which has been approved by Master Tenant is attached hereto as Exhibit B (such initial approved operating budget and any subsequent proposed budget which has been approved by Master Tenant in accordance with this Agreement, the "Annual Budget"). On or before November 1, 2026 for the 2027 calendar year, and for each calendar year thereafter on or before November 1 of the immediately preceding calendar year, Manager shall prepare and deliver to Master Tenant a proposed operating budget, in the same form as the prior year's Annual Budget, in preliminary draft form, for the ensuing calendar year (a "Proposed Budget") which shall include (i) Manager's projection of income and expense items for each month during the period covered

by the Annual Budget; (ii) Manager's projection of the cost of any managerial and other personnel to be placed at the site of the Property during the period covered by the Annual Budget, including the salaries, bonuses, fringe and other benefits to be reimbursed to Manager by Master Tenant; (iii) the amount and nature of capital or other extraordinary expenditures that Manager or Master Tenant anticipates will be required during such period and the anticipated date of such expenditures; and (iv) such other customary matters as Manager or Master Tenant reasonably determines are appropriate to allow Master Tenant to accurately review the operations and anticipated operations of the Property for such period and to allow Manager to properly perform its duties under this Agreement. Master Tenant may either accept or reject all or any part of any Proposed Budget by notifying Manager in writing (which may be by e-mail) of such acceptance or rejection. Upon Master Tenant's approval of a Proposed Budget for any calendar year (provided any lender under any Loan Documents has approved the same to the extent required), such Proposed Budget shall constitute the "Annual Budget" for all purposes under this Agreement. Without limiting any other provision of this Agreement, Master Tenant shall have the right from time to time to modify the Annual Budget then in effect, and upon notifying Manager of such changes in writing, the Annual Budget so in effect shall be deemed updated to incorporate such changes for all purposes of this Agreement. Manager shall have no authority to modify or amend the then-current Annual Budget without the consent of Master Tenant; provided however, that the foregoing shall not restrict Manager's authority to incur expenses on behalf of Master Tenant which are not contemplated by the Annual Budget in compliance with Section 2.1(b).

b) Manager agrees to act in accordance with the Management Standard to ensure that the actual costs of leasing, maintaining and operating the Property will not exceed the Annual Budget either in total or in any one accounting category. Manager shall at all times manage the Property and discharge its obligations under this Agreement in accordance with the Annual Budget and the terms herein, and Manager shall be authorized to make only those expenditures and take only those actions which are included in the Annual Budget which is then in effect; provided, however, that Manager may incur expenses on behalf of Master Tenant which are not contemplated by the Annual Budget then in effect for (1) expenditures in respect of an Emergency authorized under Section 2.4(c) below, (2) actual Non-Discretionary Expenses to the extent the same exceed the amount thereof set forth in the Annual Budget, (3) expenses which exceed the amount therefor set forth in the Annual Budget, determined on a monthly basis, so long as such variance does not exceed an amount not greater than 5% annually per summary expense with respect to controllable expenses, and (4) any variations from the Annual Budget which are otherwise expressly permitted under this Agreement or which are expressly approved or mandated by Master Tenant in advance of Manager's incurrence of the same. As used herein, "Non-Discretionary Expenses" means expenditures for real estate taxes with respect to the Property, insurance premiums with respect to the Property for coverages required by this Agreement, utility expenses with respect to the Property, the cost of debt service on the Loan (hereinafter defined), and the fees to be paid to Manager as determined under this Agreement.

c) In the event no Annual Budget has then been approved for a given calendar year hereunder, Manager shall continue to manage and operate the Property in accordance with the most recently effective Annual Budget, provided that, so long as any lender under any of the Loan Documents approves of the same (which, for the avoidance of doubt, shall be Master Tenant's obligation to request), the Annual Budget shall automatically be increased by two percent (2%) in each expense line item or in the case of any Non-Discretionary Expense, shall be modified to be equal to the actual amount thereof. Additionally, within ten (10) days of any rejection of a proposed annual budget as part of a Proposed Budget (or an attempt to resubmit a proposed annual budget under this Section 2.1(c)), Manager shall resubmit a proposed annual budget incorporating the changes requested by Master Tenant so that the revised Proposed Budget will be reasonably acceptable to Master Tenant.

d) Master Tenant reserves the right to modify the format of, and the information contained in, the Annual Budget and any Monthly Reports (hereinafter defined) as necessary to satisfy the requirements of its lenders and/or accountants; provided, however, that Master Tenant and Manager shall reasonably cooperate to the extent necessary in order to meet such requirements of any lender under any Loan Documents and/or accountants and Manager shall not be in default under the terms of this Agreement if it is unable to meet such requirements after using commercially reasonable efforts.

e) Notwithstanding anything in this Agreement to the contrary, any costs or expenses that either: (x) are capital in nature and are equal to or greater than $10,000.00 in the aggregate, or (y) relate to interior unit renovations, shall in each case be subject to the prior written consent of Master Tenant, regardless of whether such expenditure is set forth in Annual Budget.

2.2 Employment of Personnel.

a) Manager agrees to hire, pay, supervise and discharge all employees necessary for the performance of its obligations under this Agreement and such personnel shall be the employees or independent contractors of Manager and not of Master Tenant. Such personnel shall in every instance be deemed employees and/or independent contractors of Manager and not Master Tenant, and Master Tenant shall have no right or obligation to supervise or direct such employees and/or independent contractors, and shall bear no liability for such personnel. Manager shall fully comply with all applicable laws and regulations concerning worker's compensation, social security, unemployment, tax withholding and reporting, hours of labor, wages, working conditions and all other laws affecting or respecting the employment of such employees or independent contractors. Manager shall maintain any insurance policies that are reasonably necessary or appropriate in connection with the foregoing at Manager's sole cost and expense (except workers' compensation insurance, which shall be reimbursed by Master Tenant as set forth in the Annual Budget) and at the request of Master Tenant, to the extent in Manager's possession, shall provide certificates evidencing such policies to Master Tenant. Unless approved by Master Tenant in writing in its sole and absolute discretion, Manager shall have no authority to enter into any employment contract which purports to be on behalf of Master Tenant, or which otherwise obligates Master Tenant in any respect. Manager represents that it is and will continue to be an equal opportunity employer and will advertise as such to the extent Manager elects to advertise. Manager understands and agrees that its relationship to Master Tenant is that of an independent contractor and that it will not represent to anyone that its relationship to Master Tenant is other than that of an independent contractor.

b) Manager shall pay all costs, including, without limitation, salaries, wages, and other compensation and fringe benefits, of all personnel involved directly or indirectly in providing any or all of its services pursuant to this Agreement, which costs shall constitute a reimbursable expense by Master Tenant solely to the extent enumerated in the Annual Budget, permitted hereunder or approved by Master Tenant in writing. If outside of the Annual Budget, Manager shall notify Master Tenant prior to engaging additional personnel or resources that would result in Master Tenant incurring additional salaries, wages or other compensation and related payroll taxes and/or fringe benefits.

c) Manager shall not be obligated to pay or reimburse Master Tenant for any accrued but unused portions of vacation or sick pay upon the termination of a member of Property staff. Master Tenant shall not pay for vacation accrued prior to a Property staff member's employment at the Property.

d) Master Tenant acknowledges that Manager may from time to time self-insure certain benefits and insurance, such as workers' compensation and health/vision/dental insurance, and set the premiums on a per-team-member basis. The determination of such premiums is based upon the guidance of third-party consultants, but, in any given calendar year or fiscal year, the actual costs of such benefits or insurance may be greater than or less than the aggregate amount of premiums collected. In either instance, Manager will neither seek additional payments from Master Tenant nor make any reimbursement to Master Tenant.

2.3 Contracts for Goods and Services; Leasing.

a) Manager shall negotiate and enter into contracts, as agent for Master Tenant, and/or issue purchase orders for the acquisition and/or provision of goods, services, and/or materials necessary for the operation, maintenance, and repair of the Property in accordance with the Annual Budget and the terms herein (each, a "Contract" and collectively, the "Contracts"), which may include, without limitation, Contracts for water, electricity, gas, fuel, oil, telephone, vermin extermination, and/or trash removal. Manager shall arrange for the purchase on behalf of Master Tenant, in an economical and efficient manner, of all inventories, equipment, tools, appliances, materials and supplies which, in the ordinary course of business, are necessary and appropriate to maintain the Property in a manner which is consistent for like-kind properties owned by institutional investors, subject to limitations of the Annual Budget and terms herein, with such items becoming the personal property of Master Tenant. In connection with taking bids on or otherwise pursuing any Contracts, Manager shall use commercially reasonable efforts to secure for Master Tenant any discounts, commissions, or rebates obtainable as a result of such purchases and in all cases with respect to the securing of discounts, commissions or rebates, Manager shall treat Master Tenant in a manner substantially identical to all owners of properties that Manager manages. Notwithstanding anything herein to the contrary, Manager shall not enter into any Contract without the prior consent of Master Tenant unless the general scope of work was provided for in the Annual Budget (subject to the limitation set forth in Section 2.1(f) hereof).

b) All Contracts shall, unless otherwise approved by Master Tenant in writing: (i) be in the name of Master Tenant (provided the same may be executed by Manager as agent for Master Tenant), (ii) be assignable, at Master Tenant's option, to Master Tenant's nominee (excluding national contracts that Manager is permitted to execute in accordance with the terms of this Agreement relating to the Property), (iii) include a provision for cancellation thereof by Master Tenant or Manager without cause at no cost upon not less than thirty (30) days' written notice, (iv) be for a stated term not exceeding one (1) year and not include automatic renewal unless approved by Master Tenant in writing, and (v) shall require that all contractors provide evidence of insurance from companies and in amounts and coverages based upon the criteria set forth on Schedule 2.3(b). Unless Master Tenant waives such requirement in writing, all Contracts providing for payments to be made by or reimbursed by Master Tenant in excess of $5,000 per annum shall be subject to bid under the procedure as specified in Section 2.4(d) below. Manager shall provide an executed copy of each Contract to Master Tenant within 72 hours of entering the same. Manager shall screen each third-party service provider or vendor engaged by Manager on behalf of Master Tenant based upon the criteria set forth on Schedule 2.3(b) (Vendor Requirements). Master Tenant acknowledges that Manager relies on service providers or vendors to provide current and accurate information for screening purposes.

c) Manager shall negotiate and execute, as agent for Master Tenant, Leases for the Property and collect all rents and other revenue due to the Property either as part of the Lease or revenue for ancillary services. Manager shall utilize efforts consistent with the Management Standard to keep the Property fully leased by Tenants pursuant to Leases. Without the prior consent

of Master Tenant, Manager shall only be entitled to execute residential leases: (i) whose terms and potential Tenant(s) are consistent with the leasing guidelines promulgated to Manager from time to time by Master Tenant (which may be provided in an e-mail, for the avoidance of doubt); (ii) which, subject to the terms of the Loan Documents, are on the residential lease form attached hereto as Schedule 2.3(c); and (iii) do not otherwise constitute a breach of any provision of this Agreement.

d) Manager shall engage a nationally recognized screening service to screen each potential Tenant to determine if such Tenant: (i) appears on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control in the United States Department of the Treasury or the Annex to United States Executive Order 132224-Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, or (ii) is a prohibited party under the laws of the United States. Manager and Master Tenant will determine leasing criteria as detailed in Exhibit D of this Agreement.

e) In addition to the property management services provided by Manager hereunder, Manager and each of its Affiliates (collectively, "Greystar") offers additional services to Master Tenant via its Advantage Solutions platform. Greystar's Advantage Solutions platform offers property management technology systems and other software that support the operation of the Property, as well as asset protection, utility management, receivables, and marketing systems, services, and software, which are necessary or recommended for the efficient operation of the Property. By leveraging Greystar's national scale and experience as a leading property management company, Greystar negotiates discounted and preferred pricing and enhanced services for the benefit of its clients. The list of all additional services available to Master Tenant via the Advantage Solutions platform is attached hereto as Exhibit E and such Exhibit E also specifies which of such additional services Master Tenant has elected to receive as of the Effective Date. If Master Tenant elects to engage Greystar to provide any other additional services, such services will be subject to a separate order form or agreement which will supplement this Agreement and will be subject to additional compensation to Greystar, as set forth in such order form or agreement. Master Tenant may elect to cease receiving any particular additional service by providing written notice to Manager of such election.

f) In addition to the foregoing additional services offered to Master Tenant by Greystar, Greystar leverages its national scale to negotiate preferred and discounted pricing, rebates, and incentives with third-party vendors and suppliers for the benefit of its clients. In connection with Greystar's relationship with such vendors and suppliers, Greystar may receive rebates, incentives, commissions, or other direct compensation from such vendors and suppliers for Greystar's own account in order to defray the costs incurred by Greystar in its efforts to provide clients with best-in-class services, pricing and offerings from such vendors and suppliers. Master Tenant shall not be required to utilize any of these vendors or suppliers. Manager agrees to advise Master Tenant if any contract or other transaction contemplated by Manager in connection with the Property is with a vendor or supplier described in this Section 2.3(f). The pricing schedules identified in contracts with such recommended or preferred suppliers shall be provided to Master Tenant as identified therein without change by Manager and, if the Property is to receive a direct rebate of the manufacturer of the goods, the Property shall receive such rebate.

2.4 Maintenance and Repair of Property.

a) Manager, at Master Tenant's expense, shall maintain the Property and each part thereof in good operating condition, and perform or cause to be performed such normal and routine maintenance and repair work as may be necessary for the Property and as may otherwise be required under the Leases, Contracts, and/or Property Documents but only to the extent Manager

has expressly undertaken to provide assistance with respect to such specific requirements under any such Contract and/or Property Documents as provided in Section 1.3(e)(1), in each case in accordance with the Annual Budget, the terms herein and the Management Standard.

b) Manager shall act in accordance with the Management Standard with the goal of ensuring that (i) the actual sums expended in discharging the obligations of Manager under this Section 2.4 are in all events consistent with the authority to expend funds granted to Manager under Section 2.1(b) of this Agreement, and (ii) the Property is obtaining services, supplies and purchases at the lowest reasonably available cost considering the quality and availability of such services, supplies, and purchases. All expenses shall be charged to the proper account as specified in the Annual Budget and no expense shall be classified or reclassified for the purpose of avoiding an excess in the annual budgeted amount of an accounting category.

c) Without limiting its general duties under Section 2.4(a), subject to Master Tenant making funds available, Manager shall be responsible for (and shall ensure) the making of, and supervise, all ordinary repairs, decorations and alterations to the Property, subject to the terms and provisions of this Agreement. In connection therewith, disbursements for actual and reasonable expenses for materials and labor for such purposes will (to the extent consistent with the authority to expend funds granted to Manager under Section 2.1(b) of this Agreement) be made from the Operating Account (as defined below). To ensure that all non-routine repairs or capital projects are supervised by appropriate personnel, all activities associated with the alteration, remodeling, renovation, or construction to the Property, equipment, systems, or facilities, (i) that require specialized skills, training, or knowledge that are beyond what would be required for routine repairs and maintenance, or (ii) that require a contractor's license or permit, will be supervised or managed by Manager pursuant to a separate written agreement between Master Tenant and Manager. In the event of an imminent present threat of injury to persons at the Property or damage to the Property (an "Emergency"), Manager is authorized to make repairs to the Property for items that are not contained in the Annual Budget without obtaining Master Tenant's prior written approval, provided that:

1) Commercially reasonable efforts by Manager to obtain Master Tenant's prior approval have been made prior to making any expenditures;

2) The repairs are necessary to respond to an Emergency; and

3) Notice of the repairs is provided to Master Tenant setting forth the nature of the Emergency, the estimated or actual cost to complete such repair, as the case may be, and any action taken in connection therewith, within one (1) Business Day after such Emergency occurs. "Business Day" means any day other than a Saturday, Sunday or a day national banks are authorized or required to be closed in New York, New York.

d) Unless Master Tenant has waived application of these competitive bidding requirements in writing in advance (which waiver shall apply on a Contract-by-Contract basis only, and shall not constitute a blanket waiver in any instance), all Contracts providing for payments to be made by or reimbursed by Master Tenant in excess of $5,000 per annum shall, unless otherwise agreed by Master Tenant, be awarded on the basis of competitive bidding, solicited in the following manner:

1) A minimum of two (2) written bids shall be obtained; provided however, if the Contract at issue provides for payments to be made by or reimbursed by Master Tenant in excess of $20,000 per annum, then a minimum of three (3) written

bids shall be obtained.

2) Manager shall notify Master Tenant in writing of all bids obtained and shall identify the bid which Manager proposes to accept. Manager shall obtain Master Tenant's written approval prior to accepting any bid, except in cases of Emergency.

3) Reserved.

4) If Manager desires to accept any bid obtained other than the lowest bid, Manager shall adequately support, in writing, its recommendation to Master Tenant and receive Master Tenant's prior written approval before awarding the contract.

5) Master Tenant shall be entitled to direct Manager to accept or reject any and all bids and the terms of any contracts related thereto, and Manager shall carry out the written instructions of Master Tenant in connection therewith.

e) With respect to all work and/or materials provided and relating to the maintenance and repair of the Property or any portion thereof which, pursuant to local law, may constitute a lien upon the Property if not paid, Manager shall require that Contracts therefor provide that the counterparty thereunder will: (i) upon completion of the work or delivery of the materials at issue, provide conditional lien waivers and releases (conditioned only on clearing of payment) pertaining to such work and/or materials, which identify the amounts required to be paid to release said liens; and (ii) provide executed unconditional lien waivers and releases upon receipt of the payment provided for in the Contract. Manager shall strictly enforce the rights of Master Tenant and/or Manager under such Contracts with respect to the foregoing.

2.5 Compliance with Lender Requirements. Manager acknowledges that the Property may be subject to loan documents between Owner and/or Master Tenant and one or more lender(s) relating to any loan directly or indirectly encumbering the Property or any equity or other membership interest in Owner and/or Master Tenant (collectively, "Loan Documents"). The loan or loans evidenced by any Loan Documents in effect from time to time, as the same may be refinanced or replaced, is collectively referred to herein as the "Loan". Manager agrees to enter into and shall comply with the provisions of any commercially reasonable assignment and subordination of management agreement requested to be entered into by Manager with any holder or servicer of any Loan.

2.6 Insurance.

a) **Manager's Insurance; Coverages Required**. During the term of this Agreement, Manager shall, at its expense, but subject to limited reimbursement pursuant to Section 3.3 hereof, maintain the following insurance coverages in place and in full force and effect:

1) Commercial general liability insurance, on an occurrence (not claims-made) form applying "per location" if the policy covers more than one, with limits of at least $10,000,000 each occurrence and covering third-party personal injury, property damage, and bodily injury (including death). Such limits may be achieved through the purchase of several policies including an excess or umbrella insurance policy. Manager shall ensure that each of Owner and the Master Tenant Indemnified Parties (defined below) are named as insured or additional insured by definition or endorsement.

2) Auto (Owned and Hired). Comprehensive automobile liability insurance on a standard form written to cover all owned, hired and non-owned automobiles of Manager in an amount of not less than $1,000,000.00 per accident (Single Limit Bodily Injury and Property Damage). Manager shall ensure that each of Owner and Master Tenant Indemnified Parties are named as insured or additional insured by definition or endorsement.

3) Crime Insurance. Crime insurance policy covering employee dishonesty, client coverage, forgery & alteration, money and securities on and off the premises, computer fraud, wire transfer fraud, protecting Manager against fraudulent or dishonest acts of its Manager's employees, whether acting alone or with others, written on a discovery form with limits of $1,000,000.00 per claim. Owner and Master Tenant shall be covered as joint loss payee.

4) Workers' Compensation Insurance. Workers' Compensation and employee liability insurance in not less than the applicable statutory amounts required in the state in which the Property is located and where Manager has employees performing services pursuant to this Agreement. Notwithstanding anything to the contrary herein, the cost of Workers' Compensation insurance for Property staff shall be reimbursed by Master Tenant to Manager, subject to the provisions of this Agreement relating to the Annual Budget and the provisions limiting Manager's ability to incur expenses.

5) Professional Liability or Errors and Omissions Insurance. Professional liability policy or Errors and Omissions Insurance in an amount of not less than $1,000,000.00 per claim

(i) [Reserved].

(ii) Owner and Master Tenant Additional Insured. Each of Owner and Master Tenant Indemnified Parties shall be named as an additional insured on Manager's general liability and excess liability policies of insurance required to be carried by Manager under this Section 2.6. Manager will furnish to Master Tenant, not later than the date of this Agreement, certificates of insurance, together with all required exclusions and endorsements, including but not limited to an endorsement that Master Tenant will be given at least thirty (30) days' prior written notice of cancellation or any material change in coverage. All of Manager's insurance shall be in the name of Manager, and Manager's insurance shall be excess over and non-contributory with any other valid, existing, and applicable insurance carried by Owner or Master Tenant.

b) **Owner's / Master Tenant's Insurance; Coverages Required**. During the Term of this Agreement, Owner or Master Tenant, at its expense, shall maintain the following insurance coverages in place and in full force and effect:

1) Property damage insurance, including builder's risk insurance, where applicable, to cover "all risk of physical loss" or damage to the Property from fire, and extended coverage perils, including vandalism, riot and civil commotion, burglary, theft and malicious mischief, demolition, debris removal, in an amount equal to the full replacement cost of the improvements and equipment comprising the Property,

including loss of rents coverage; and

2) Commercial general liability insurance, including bodily injury (including death), personal injury and property damage liability in connection with the use or occupancy of the Property written on an occurrence (not claims-made) basis, with limits of at least Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate. Such limits may be achieved through the purchase of several policies, including excess or umbrella policies. Owner or Master Tenant, as applicable, shall ensure that Manager, its Affiliates, and each of their respective officers, directors, managers, representatives, agents, principals, equity owners, contractors, subcontractors, insurers and employees, and their respective successors and assigns (collective "Manager Indemnified Parties") are named as insureds or additional insureds by definition or endorsement; and

3) Commencing on a date no later than 30 days after the Effective Date, Environmental liability insurance, on an occurrence (not claims-made) form, with limits of at least $5,000,000 per occurrence. Owner shall ensure that Manager Indemnified Parties are named as additional insureds by definition or endorsement.[1]

) All of Owner's or Master Tenant's insurance shall be in the name of Owner or Master Tenant, as applicable, except that Manager Indemnified Parties shall be named as additional insured on Owner's and Master Tenant's liability insurance policies and Owner's and Master Tenant's insurance shall be primary insurance and not excess over or contributory with any other valid, existing, and applicable insurance carried by Manager. All Owner's and Master Tenant's insurance policies required to maintained hereunder shall contain a clause or endorsement whereby the insurer waives subrogation or consents to a waiver of the right of recovery against Manager. Owner's and Master Tenant's insurance coverages maintained pursuant to this Agreement may be amended, endorsed or modified by Owner or Master Tenant, as applicable, from time to time, so long as such insurance coverages continue to satisfy the requirements of this Section 2.6. All of Owner's and Master Tenant's insurance policies required hereunder shall provide for an endorsement that Manger be given at least thirty (30) days' prior written notice of cancellation or of any material change in coverage and ten (10) days' notice if cancellation is due to no-payment of premium.

b) Each party must furnish the other party, not later than the Effective Date, with a certificate(s) evidencing these insurance coverages, together with all exclusions and endorsements. Master Tenant will not reimburse Manager for Manager's cost of such insurance that Master Tenant requires Manager to obtain except workers' compensation insurance. Owner and Master Tenant and Owner's and Master Tenant's parent together with any other subsidiaries and/or Affiliates of such parties and each of their respective officers, directors, managers, representatives, agents, principals, equity owners, contractors, insurers, employees, and their respective successors and assigns ("Master Tenant Indemnified Parties") shall be named as additional named insureds under Manager's General Liability and Umbrella policies.

c) All policies obtained by Manager, Owner or Master Tenant shall be issued by insurers with a Best Rating of A- VIII or higher by insurers licensed to do business in the State where the Property is located and can be part of a blanket policy.

d) Vendors and contractors providing goods and/or services to the Property shall be required to maintain policies of insurance that satisfy the minimum requirements set forth for its category of vendor/contractor type in Schedule 2.3(b) (Vendor Requirements). Manager shall, if commercially reasonable, cause any subcontractor, vendor or other supplier hired by

Manager, on behalf of and as agent of Master Tenant, to perform work at the Property to agree in writing to indemnify, defend and hold harmless Owner, Master Tenant and Manager from and against any and all claims, allegations, lawsuits, or other causes of action arising out of such party's work done at the Property on behalf of Master Tenant due to, or alleged to be due to, such party's acts or omissions.

e) Manager shall promptly investigate and make a full written report to Master Tenant as to all accidents, claims for damage relating to ownership, operation and maintenance of the Property, and any damage or destruction to the Property, which in each case which in Manager's opinion may result in a claim under Master Tenant's and/or Owner's insurance and, if applicable, the estimated cost of repair thereof, and shall assist and cooperate with Master Tenant in the preparation of any and all reports reasonably required by any insurance company in connection therewith. All such reports shall be promptly filed by Master Tenant and the status of any outstanding insurance and/or casualty related claim and/or matter shall be noted in the next Monthly Report to be delivered to Master Tenant pursuant to Section 2.10(b) hereof. Manager shall not be responsible for the processing or settlement of claims against Master Tenant's or Owner's insurers, but Manager shall reasonably assist Master Tenant with processing said claims upon Master Tenant's request

f) Master Tenant and Manager further agree that their policies of insurance shall contain clauses or endorsements whereby the insurer agrees to (i) waive subrogation or consents to a waiver of the right of recovery against Manager Indemnified Parties and Master Tenant Indemnified Parties, respectively, and that this provision applies regardless of whether or not Master Tenant and Manager has received a waiver of subrogation endorsement from the insurer; (ii) name Manager Indemnified Parties or Master Tenant Indemnified Parties, respectively, as additional insureds by definition or endorsement as required above; (iii) provide an unconditional right of thirty days' prior written notice to the other party of the insurers' decision to cancel or materially modify the policies (ten days' notice, if cancellation is for non-payment of premium); (iv) contain a severability of interest or separation of the insured's provision; and (v) afford defense and indemnity coverage for an insured in the event of a claim brought by another insured.

2.7 Collection of Revenues; Compliance with and Enforcement of Leases.

a) All (i) rents, security deposits, utility charges, common area charges, insurance charges, and real estate and personal property tax and assessment charges, to the extent payable by Tenants under Leases at the Property, (ii) all other pass-through or bill-back charges, sums, costs or expenses of any nature whatsoever payable by Tenants under the terms of any or all of the Leases and any other agreements relating to all or any portion of the Property (including, without limitation, any and all license, service or other agreements affecting the Property), and (iii) all other revenues, issues and profits or other amounts accruing from the Property and due and payable to Master Tenant (including, without limitation, any and all license, service or other agreements affecting the Property) (collectively, "Property Revenues") shall be collected by Manager from such Tenants or other counterparty and shall be deposited by Manager within one (1) Business Day into an account in the name of Owner, at a bank designated by Owner that is under the sole ownership and control of Owner (the "Collection Account"); provided, that if the requirements of the Loan Documents contradict these instructions, the provisions of the Loan Documents shall control but only upon Manager's receipt of written instructions (which may be by e-mail) from Master Tenant to Owner as to the specific mortgage loan accounting requirements to be applied with respect to collection of Property Revenues.

b) Manager shall not collect any Property Revenues more than one (1) month in advance of when the same shall be due and payable under any Lease (except to the extent any such

advance rental is paid by the Tenant, and segregated by the Manager, as a security deposit or such advance payment is otherwise approved by Master Tenant in writing). Manager shall timely make or verify any calculations that are required to determine the amount of rent due from Tenants, including, without limitation, calculating percentage rent and other operating expense "pass-throughs" and consumer price index adjustments. Manager shall be responsible for the billing of all charges or other income due with respect to the Property. Manager may, after noticing the Master Tenant who Manager plans to retain as legal counsel, in the name of and at the expense of Master Tenant, retain legal counsel to assist with the foregoing and/or to institute legal proceedings for: (i) the collection of rent and other sums payable by Tenants or other parties under the terms of any Leases or other agreements affecting the Property; (ii) the eviction or ejectment of Tenants or other persons from the Property, and (iii) the enforcement of any other right, privilege, benefit, or remedy available to Master Tenant pursuant to the Leases, Property Documents or applicable law. Manager shall thereafter keep Master Tenant apprised of all aspects and the status of such action. Manager shall inform Master Tenant prior to filing eviction on any tenants at the Property.

c) Any Property Revenues collected by Manager shall be held by Manager for the benefit of Master Tenant and deposited in the Collection Account within one (1) Business Day after receipt, and in the event Master Tenant or any lender under any Loan Documents requests Manager to process checks received at the Property via electronic scanner, then Manager shall use its best efforts to cause such checks to be processed as soon as reasonably possible via such electronic scanner method. Manager shall collect all such rent and other Property Revenues as a fiduciary of Master Tenant. In the event that certain check processing equipment is provided to Manager for use in making deposits into the Collection Account, Manager agrees to return such equipment to Master Tenant, at Master Tenant's expense, upon the termination of the Agreement.

d) Manager shall (i) monitor Master Tenant's compliance with the Leases, (ii) promptly advise Master Tenant of any known non-compliance with the Leases, and (iii) upon Master Tenant's approval, take all actions necessary to remedy any such non-compliance.

e) Manager shall maintain business-like relations with all Tenants, whose service requests shall be received, logged and considered in systematic fashion in order to show the action taken with respect to each. Manager agrees to promptly handle complaints and requests from Tenants and to notify Master Tenant of any material complaint by a Tenant at the Property (including, without limitation, any complaint, communication or state of facts which could give rise to a rental abatement or a right of setoff or termination) with appropriate recommendations with respect thereto.

2.8 Manager Disbursements. Manager shall, from available funds in the Operating Account, cause to be disbursed regularly and punctually (1) all operating expenses of the Property authorized to be incurred pursuant to the Annual Budget or otherwise authorized by this Agreement, and (2) the amounts reimbursable to Manager under this Agreement. In the event sufficient funds are not available to make such payments, Manager shall notify Master Tenant who will instruct Manager as to the payments and amounts to be paid and Manager shall not be liable for any failure to make any payments as a result of Master Tenant's failure to make such funds available to Manager. At Master Tenant's expense, Manager shall act in accordance with the Management Standard to keep the Property free and clear of unauthorized mechanics', materialmen's or vendors' liens in connection with work performed by subcontractors, vendors, and service providers pursuant to Contracts and will promptly pursue the release or bonding off of any lien that may be filed against the Property.

2.9 Certain Notices; Legal Proceedings.

(a) Manager shall notify Master Tenant as soon as reasonably possible of (i) any

threatened or pending condemnation, rezoning or other governmental orders affecting the Property of which Manager is actually aware, or any litigation, public or administrative hearing, proceeding, claim, complaint or notice of potential liability arising with respect to, or threatened against, the Property, in each case of which is posted at the Property or of which Manager otherwise has actual knowledge thereof, (ii) any known or alleged violation of any law, regulation, or ordinance at the Property or the presence of any environmentally hazardous substance on the Property or any adjoining property in each case which is posted at the Property or of which Manager has otherwise become actually aware, and (iii) any actual or apparent material breach of any Lease, Contract, and/or Property Document by Manager, Owner, Master Tenant, or any affiliate of the foregoing, on the one hand, or any counterparty to any of the foregoing, on the other hand, of which Manager is actually aware, excluding in each instance matters for which Master Tenant has already received notice thereof. Without limiting the foregoing, Manager shall, within two (2) Business Days after receipt, furnish to Master Tenant any and all notices that Manager receives (and that Master Tenant has not already received) (i) which claim that the Property is in violation of any applicable legal requirements or threatens litigation or other potential exercise of legal remedies against the Property, Owner or Master Tenant, (ii) from a Tenant, claiming that a material default by Master Tenant and/or Manager of any of their collective obligations under its Lease with such Tenant, (iii) from any lender under any Loan Documents relating to the Property, or (iv) which otherwise would reasonably be expected to be material to Master Tenant. Should any claim, demand, suit or other legal proceeding be made or instituted by any third party against Master Tenant relating to the Property, Manager shall, upon written request, provide Master Tenant with such documents and information in Manager's possession that is reasonably related to such proceeding; provided, however, that Manager shall have no obligation to provide such documents or information if (x) such proceeding is brought on behalf of Manager or by an Affiliate of Manager or Manager or an Affiliate of Manager is otherwise adverse to Master Tenant in such proceeding; (y) production would require Manager to waive any applicable privilege, right, or other confidentiality obligation; or (z) such production would unreasonably interfere with Manager's operations.

(b) Manager, on behalf of Master Tenant, will deliver all required notices, including, but not limited to, notices concerning failure to pay rent or other charges when due (if delivery of such notice is required under the defaulting Tenant's Lease) and notices concerning the breach of any non-monetary covenant under each Lease or Contract. Manager will take all reasonably necessary legal action or other action, if authorized in writing by Master Tenant , on behalf of Master Tenant, to enforce Leases, including, but not limited to, serving Tenants with notices to vacate the leased premises in accordance with the laws of the state in which the Property is located, and undertaking collection and eviction procedures. Notwithstanding the foregoing, Master Tenant and Manager acknowledge that initiation and prosecution of lawsuits by or on behalf of the Property, except as permitted under Section 2.7, shall require the prior consent of Master Tenant. To the greatest extent possible, Manager will use standard forms approved by Master Tenant in connection with enforcement, collection and eviction. All suits or proceedings relating to enforcement of Leases shall be brought in the name of Master Tenant, with counsel approved by Master Tenant, and if Master Tenant provides written notice to Manager electing to direct one or more suits or proceedings, such suits or proceedings shall be handled in such a manner as Master Tenant directs. Costs and fees of counsel must be included in the Annual Budget or otherwise approved by Master Tenant. Manager will not attempt any self-help remedy in connection with the operation of the Property, including but not limited to any right of set-off hereunder, without Master Tenant's prior written consent.

2.10 Books and Records; Reporting.

a) Books and Records. Manager shall maintain, at its principal place of business, a comprehensive system of records, books, and accounts for the Property in a manner reasonably

satisfactory to Master Tenant, including one set of books reflecting property operations and another reflecting the operations of the Master Tenant. All such books, records and accounts shall be retained in accordance with Manager's industry-standard and internal record retention policies; provided however, that the books and records shall segregate the Master Tenant cash flows from the Owner cash flows. All such books and records shall be the property of Master Tenant and upon termination of this Agreement, Manager shall promptly deliver all such records to Master Tenant in accordance with the terms herein. Master Tenant may request Manager to share Manager's chart of accounts and direct Manager to set up various non-operating income line items to accurately reflect Capital Expenditures and improvements at the Property. If Owner requires Manager to prepare both cash and accrual accounting reports, Owner shall pay Manager a fee of $750 per month. Additional fees will apply if Owner requests that Manager provide specialized accounting or non-customary reports.

b) Monthly Reports. On or before the fifteenth (15th) day of each month, Manager shall render to Master Tenant a detailed written report, in Microsoft Excel where applicable, with other reports provided as Adobe PDF, regarding the property operations for the preceding month (the "Reporting Month") for the Property including, but not limited to, the following items (each, a "Monthly Report"):

1) The Master Lease rent calculation (consisting of rent owed, paid and accrued under the Master Lease); provided that Master Tenant shall provide such information as is reasonably necessary to make such calculation.

2) Detailed, unaudited trailing 12 Months, inclusive of the current month income statement for the Property which lists by account all cash receipts and disbursements, expenses, the current month activity, current month budget, current month variance (by dollar and percentage), year-to-date actual activity, year-to-date budget activity and year-to-date variance (by dollar and percentage).

3) An Annual Budget variance analysis, noting any variance on a per line item and an aggregate basis, both for the calendar month at issue and year-to-date, including an explanation for any variance in excess of 10% for any line item and/or 5% for any aggregate comparison (whether monthly or year-to-date.

4) A check register or general ledger, reflecting for each transaction the check number, payee, purpose and amount.

5) An unaudited balance sheet as of the end of the Reporting Month with comparisons to prior years, when applicable.

6) A rent roll as of the end of the Reporting Month.

7) A trailing 12 Months, inclusive of the current month statement of capital expenses during each calendar month as of the last day of each calendar month detailing all capitalized costs, including but not limited to construction, site work, landscaping, parking lots, tenant improvements, leasing expenses, loan fees, legal fees, capital repairs and development fees.

8) Trailing 12 Months, inclusive of the current month statement of cash flows for the Property which shows the current month and year-to-date.

9) A bank reconciliation report accompanied by a copy of the actual bank statements, bank deposit slips and scanned check copies (front and back).

10) A statement of all accounts receivable with balance due and length delinquency and comments regarding collection status.

11) A statement of all accounts payable.

12) A schedule calculating all related party fees, management fee and other fees to be paid to Manager, if not approved in Exhibit C in this Agreement.

13) Leasing report detailing the number of prospects (procured either online or in person), disposition of the prospects (if denied why denied) and number of prospects converted to application, signed leases and cancellations.

14) Lease Trade Out report showing Tenant name, apartment number, previous lease rental rate, new lease rental rate, tenure of previous and current lease and a percentage showing the increase in rental rate for all new leases and renewed leases signed

15) Brief narrative which addresses vacancy/leasing activity, general operations, pending litigation, rent collection on delinquent Tenants, significant market changes and any marketing activity.

In addition, on or before the fifteenth (15th) day of each month, Manager shall complete and deliver to Master Tenant, together with the Monthly Report for such month to be delivered by Manager, a certification by the accounting manager for the Property that the Monthly Reports are true and correct in all material respects pursuant to the form of certification set forth on Schedule 2.10(b) attached hereto.

c) Quarterly Reporting. Within fifteen (15) days after the end of each quarter, Manager shall deliver to Master Tenant: (1) market information of comparable properties on reasonably requested by Master Tenant, (2) security deposit detail, if not included in the rent roll provided in the Monthly Reports and (3) an investor-facing report (for the investors in Owner) in form and substance agreed to between the Master Tenant and the Manager using the Master Tenant's specified breakdown.

d) Annual Report. Within forty-five (45) days after the end of each calendar year, Manager shall deliver to Master Tenant: (1) an income and expense statement for the Property for the most recently ended calendar year showing the results of operations for that calendar year and prior years; (2) a balance sheet for the Property as of the end of such calendar year, and including prior years, and certified as being true and correct in all material respects by Manager; (3) an annual cash flow statement for the Property; (4) market information, including leasing/investment sales materials from independent brokers to the extent provided by third parties on an annual versus quarterly basis; (5) operating budget with comparison to prior year; and (6) capital budget with comparison to prior year. Further, the annual report shall compare the actual operations for the calendar year to the budgeted operations for the same calendar year.

e) Reporting Generally.

1) All financial reports will be compatible with Master Tenant's accounting procedures as specified by Master Tenant from time to time. Manager will cooperate with and give reasonable assistance to any independent public accountant retained by Master Tenant to examine any and all reports, books and records pertaining to the Property.

2) Manager shall make available to Master Tenant (and others designated by Master Tenant from time to time), at the Property, all records, accounts and books and all vouchers, files, and all other material pertaining to the Property and this Agreement, including all personnel who prepare any of the foregoing and such parties shall have the right to make copies of the same and take extracts therefrom. Master Tenant, and to the extent provided in the Loan Documents any holder or servicer of any Loan (and/or respective parties designated by the foregoing from time to time) shall have the right to audit or examine the books and records of Manager pertaining to the Property at any time during normal business hours, at Master Tenant's expense, and upon not less than three (3) Business Days' notice and Master Tenant, and to the extent provided in the Loan Documents any holder or servicer of any Loan (and/or respective parties designated by the foregoing from time to time) also shall have the right to perform any and all additional audits relating to Manager's activities at the Property, all at Master Tenant's sole cost and expense, as desired by Master Tenant from time to time.

3) If, at the time of Manager's delivery of a Monthly Report, any Tenant under a Lease is delinquent in its payment of rent (either for the current month, or for any prior accounting periods) (individually and collectively, "**Rent Delinquencies**"), then, in such Monthly Report, Manager will disclose (i) the Rent Delinquencies applicable to the current month, and (ii) all Rent Delinquencies from prior months and/or accounting periods which have not been collected as of the date of the Monthly Report.

4) In addition to the reports described above, Manager shall cause to be prepared any reports and documentation relating to the operation of the Property in Manager's possession or ad hoc reports as requested by Master Tenant (a) that Master Tenant deems necessary to review and analyze the operating performance of the Property, including supplemental daily, weekly, and monthly reporting to be completed on Master Tenant's form and (b) required pursuant to the Loan Documents from time to time (including to comply with any draw procedures thereunder).

2.11 Miscellaneous.

a) Inspection by Manager. As part of a continuing program to secure full performance by on-site personnel of all maintenance obligations for which they are responsible, Manager shall, if necessary, make weekly visual site inspections of the Property and report any unusual findings to Master Tenant, except in cases where the Manager is unavailable due to PTO, extenuating circumstances or unable to physically access the Property.

b) Returns Required by Law. Manager shall execute and file punctually when due all forms, reports, and returns required by law pertaining to Manager's operation and

management of the Property or the services provided by Manager hereunder, including but not limited to those related to the employment of personnel, unemployment insurance, workmen's compensation insurance, disability benefits, social security and other similar taxes, and payment of contractors, vendors, service providers, etc. for the Property, but excluding income tax, business tax or similar returns to be filed by Master Tenant. For the avoidance of doubt, Manager shall reasonably cooperate with Master Tenant in gathering data for tax returns or related filings for Master Tenant or otherwise with respect to the Property; provided, however, that Manager shall not be responsible for preparing or filing such tax returns or related filing for Master Tenant.

c) Compliance with Legal Requirements. Manager shall act in accordance with the Management Standard to comply with and cause the Property to comply with federal, state and municipal laws, ordinances, regulations and orders relative to the leasing, use, operation, repair and maintenance of the Property and with the rules, regulations or orders of the local Board of Fire Underwriters or other similar body, including, without limitation, compliance with the Americans with Disabilities Act (42 U.S.C. Section 1201 et seq.). Manager becomes aware of a violation of applicable law, Manager shall promptly notify Master Tenant and promptly cooperate with and assist Master Tenant to remedy any violation of any such law, rule, regulation or order. Manager shall perform its services under this Agreement in accordance with Hazardous Materials Laws applicable to Manager's use and handling of Hazardous Materials at the Property, including instructing the Property staff regarding appropriate use and handling of any such Hazardous Materials used in performing Manager's services. Notwithstanding the foregoing, Manager shall not be responsible for (i) evaluating the presence or absence of Hazardous Materials upon, within, above, or beneath the Property; (ii) maintaining or evaluating compliance with respect to any Hazardous Materials Laws; (iii) conducting or ensuring clean-up or remediation of Hazardous Materials; or (iv) training its employees, agents or representatives with respect to any of the foregoing. Master Tenant reserves the right from time to time and at any time to retain one or more environmental consultants to advise Master Tenant with respect to the presence or absence of hazardous or toxic substances, waste, materials, electromagnetic fields, radon, or radioactive materials upon, within, above, or beneath the Property; compliance with environmental, hazardous or solid materials or waste laws, rules and regulations; or the clean-up or remediation of hazardous materials spills or contamination, and/or the compliance of the Property with, or the enforcement of, federal, state, and local laws, rules, regulations, directives, ordinances, and requirements relating to Hazardous Materials (hereinafter collectively "Hazardous Materials Laws"). Manager shall act at the direction of Master Tenant's environmental consultant, if any, and shall (a) undertake, on Master Tenant's behalf and at Master Tenant's expense, reasonably necessary actions for Master Tenant to comply with Hazardous Materials Laws in accordance with the environmental recommendations contained in the environmental assessment report, and/or (b) seek, on Master Tenant's behalf and at Master Tenant's expense, to enforce any tenant's compliance with any Hazardous Materials Laws in accordance with the environmental consultant's recommendations contained in the environmental assessment report and Master Tenant's rights under the Lease. Without limiting the foregoing provisions of this Section 2.11(c), Manager shall not, in the performance of the obligations under this Agreement, discriminate against any person on the grounds of race, color, creed, religion, handicap, sex, age or national origin, and Manager hereby agrees to comply with all laws, regulations and ordinances pertaining thereto.

d) Use and Maintenance of the Property. Manager agrees not to knowingly permit the use of the Property for any purpose which might void any policy of insurance held by Owner or Master Tenant which might render any loss thereunder uncollectible, or which would be in violation of any governmental laws, regulations or restrictions. Manager shall act in accordance with the Management Standard to cause compliance by the Tenants with the terms and conditions of their respective Leases, and to this end, Manager shall act in accordance with the Management Standard to see that all Tenants are informed with respect to such rules, regulations, and notices as

may be promulgated by Master Tenant. Manager shall be expected to perform such other acts and deeds as are reasonable, necessary, and proper in the discharge of its duties under this Agreement. Manager agrees to complete all tenants work orders writing in ninety-six (96) hours upon receipt by tenant, except in cases where Manager has documented labor and material shortages related to completion of work orders.

e) Data Transmission. Manager agrees to cooperate with and assist Master Tenant (at Master Tenant's expense) in developing procedures to facilitate the automatic and electronic transmission of accounting, budget and operating data from time to time required hereunder to Master Tenant via a medium established by Master Tenant. Such cooperation shall include, without limitation, implementing and using property management software as chosen from time to time by Master Tenant, using input spreadsheet files as provided from time to time by Master Tenant and developing and maintaining data files in a format required from time to time by Master Tenant.

f) Confidential Information. Through and including the three-year anniversary of the termination of this Agreement, each party hereby agrees to protect the financial and other confidential and/or proprietary information provided by the other party ("Confidential Information") from any use, distribution or disclosure except as permitted herein. Each party shall notify the other party within forty-eight (48) hours in all instances where a party is requested or required to disclose Confidential Information of the non-disclosing party. Master Tenant shall have the right to instruct Manager to not disclose Master Tenant's Confidential Information and refer the requesting party to the Master Tenant. Each party shall use the same standard of care to protect said information as is used to protect its own confidential and proprietary information, but under no circumstance shall either party use less than a reasonable standard of care. Confidential Information shall not include (a) any information publicly disclosed by the disclosing party; (b) any information the disclosing party in writing authorizes the receiving party to disclose without restriction; (c) any information the receiving party already lawfully knows, without an obligation to keep it confidential, at the time it is disclosed by the disclosing party; (d) any information the receiving party lawfully obtains from any source other than the disclosing party, provided that such source lawfully disclosed such information; or (e) any information that was or is independently developed by the receiving party without any use of or reference to any such Confidential Information. Notwithstanding the foregoing, the receiving party may disclose Confidential Information to its financing and investment partners or if and when required to do so by any court of competent jurisdiction, government agency or litigation party pursuant to written court order, subpoena, regulation or process of law provided that the receiving party shall provide the disclosing party prompt written notice of such written order, subpoena, regulation or process of law so that the disclosing party may seek a protective order with respect to any Confidential Information. Notwithstanding any provision under this Agreement, Manager shall be authorized to use Confidential Information regarding the Property, management of the Property, operational services and/or ancillary services to prepare market analyses, pro forma financial statements, budgets and other statistical information so long as Master Tenant and the Property are not identified or identifiable to third parties.

g) Prohibited Activities. Notwithstanding any provision in this Agreement to the contrary, Manager shall in no event (i) convey or otherwise transfer or pledge or encumber the Property or any property or other asset of Master Tenant, (ii) pledge the credit of Master Tenant, (iii) borrow money or execute any promissory note or other obligation or mortgage deed, security agreement or other encumbrance in the name of or on behalf of Master Tenant, (iv) except as permitted by this Agreement, institute or defend lawsuits or other legal proceedings on behalf of Master Tenant or in respect to enforcement of any Lease, Contract or other agreement with respect to the Property or terminate Leases, (v) obligate Master Tenant for the payment of any fee or

commissions to any third party real estate manager or broker, (vi) release, compromise, assign or transfer any claim, right or benefit of Master Tenant, except as specifically authorized under this Agreement, or (vii) [reserved]. For the avoidance of doubt, the limitations set forth in this Section 2.11(g) shall be in addition to all other restrictions on the authority of Manager as set forth in this Agreement.

h) Prohibited Persons and Transactions. Neither Manager, Master Tenant, nor any of its their affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Project and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action (such persons and entities being "Prohibited Persons") and each of Master Tenant and Manager covenant that it will not knowingly lease to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with Prohibited Persons.

Article III

Compensation; Accounts; Term and Termination

3.1 Compensation of Manager.

During the Term, Master Tenant shall pay to Manager, as sole compensation for the services performed by Manager under this Agreement, a monthly fee in the amount of $10,000.00 or an amount equal to three percent (3.00%) of the Effective Gross Revenues of the Property (the "Management Fee"), whichever is greater. Master Tenant may, in its discretion, elect to award Manager with a performance-based incentive fee based on revenue based or other gross operational metrics (and not based on net income, net profit, or similar "net" measures of the Property, and with the amount of such incentive fee not determined by reference thereto) in such amount(s) as Master Tenant may determine and Master Tenant may condition the payment of such incentive fee on a requirement that Manager pay all or a portion of such amount to the Manager's regional manager who is responsible for overseeing the management of the Property. For the purposes of this Agreement, the term "Effective Gross Revenues of the Property" means all rents and other recurring income and charges actually collected from the day-to-day normal operations of the Property, including, without limitation, all rental income and other fees and revenue retained by Master Tenant from coin operated vending and other machines located at the Property, but excepting therefrom: (i) sales, excise, use or similar taxes collected by Master Tenant levied or assessed on such rental payments, (ii) security deposits or other deposits that have been received and not forfeited, (iii) any income arising out of the sale or refinance of the Property, (iv) the settlement of fire, condemnation or other casualty business interruption proceeds (except to the extent applied to rent to cover loss of rents, which will be considered Effective Gross Revenues of the Property and subject to the Management Fee), rebates, or any other similar extraordinary or non-recurring receipts, any one-time or special, non-recurring receipts, and/or (v) rent paid more than one month in advance (which amounts shall be recognized when due). The Management Fee shall be paid monthly in arrears based on the Monthly Report for each month submitted by Manager to Master Tenant pursuant to Section 2.10(b) hereof. If this Agreement is terminated, and the effective date of such termination is a day other than the last day of any calendar month, the compensation earned by Manager for such month shall be prorated and adjusted based upon the Effective Gross Revenues of the Property collected for that portion of the said month.

3.2 Accounts.

a) Subject to the terms of the Loan Documents, Owner or Master Tenant, as applicable, shall establish and maintain (1) the Collection Account, and (2) a bank account for the Property with a financial institution selected by Master Tenant styled as "Connection Apartments Operating Account" (or any similar iteration) ("Operating Account") into which Master Tenant shall deposit funds from time to time as provided herein and from which Manager shall withdraw funds to pay all operating costs, vendor deposits, or capital expenditures in each case in accordance with this Agreement and on behalf of Master Tenant. Owner or Master Tenant shall have sole and exclusive control and ownership of the Collection Account and Manager shall not have access thereto. Master Tenant shall work with Manager to set up signature and wire approval for the Operating Account and to provide for certain executives of Manager as approved by Master Tenant to be signatories on the Operating Account, provided, Manager's authority to draw against such accounts may be terminated at any time by Master Tenant by providing Manager with thirty days' written notice prior to such termination except in cases set forth in Section 3.7(c)(7-10). Master Tenant shall have the authority to take any and all actions with respect to the Operating Account as it determines in its discretion. Manager shall provide a monthly reconciliation of the funds utilized in the Master Tenant-controlled Operating Account.

b) Manager shall cause to be deposited (or deposit itself, as applicable) all Property Revenues it receives into the Owner or Master Tenant-controlled Collection Account in accordance with Section 2.7(b) above, or, if required by any lender under any Loan Documents, into an account established pursuant to such Loan Documents under the control of such lender (any such lender-controlled account, a "Clearing Account"). If revenues are deposited in a Clearing Account as required under applicable Loan Documents, then any funds released from a Clearing Account shall be deposited directly into the Collection Account.

c) On a monthly basis, Master Tenant shall transfer or cause to be transferred funds from the Collection Account to the Operating Account in the amounts set forth in the Annual Budget for expenses for the month in question. Master Tenant shall ensure that at all times the Operating Account contains one month of estimated operating expenses for the Property, including, without limitation: (i) one (1) month's estimated minimum Management Fee, (ii) one (1) month's estimated Employee Burden, and (iii) the average amount of all other expenses for a calendar month as set forth in the Approved Budget, but in no event shall the Operating Account contain less than $40,000. Manager shall submit to Owner. Manager shall submit to Master Tenant a written request and itemization of additional funding needs, if any, as they arise for Master Tenant's evaluation in the form of the request attached hereto as Schedule 3.2(c). Under no circumstances shall Manager be required to advance funds on behalf of Master Tenant. Master Tenant acknowledges and agrees that Manager's obligations to perform under this Agreement are subject to availability of adequate funds, whether provided by Property Revenues or by Master Tenant. All debts and liabilities to third parties incurred by Manager in accordance with this Agreement shall be the debts and liabilities of Master Tenant and not of Manager. Manager will not let Property related current liabilities to exceed sixty (60) days as evidence by an Accounts Payables report in the format referred to in 2.10(b)(10). Manager will request funding from Master Tenant by the fourth (4th) day of each month using the form in Schedule 3.2(c).

d) Without limiting any other provision of this Agreement, Manager shall keep all Property Revenues it receives (and any other funds it may receive from Master Tenant) separate and apart from funds related to other properties for which Manager is responsible and agrees that such funds shall not be commingled. If a default by Manager is then continuing beyond any applicable notice and/or cure periods, upon the request of Master Tenant, funds shall be transferred or paid out of the Operating Account to Master Tenant or any third party directed by Master Tenant.

If a default by Manager is not then continuing, upon the request of Master Tenant and following Manager's confirmation that sufficient funds are available in the Operating Account, funds shall be transferred or paid out of the Operating Account to Master Tenant or any third party directed by Master Tenant.

e) [Reserved]

f) All payments to be made by Manager hereunder shall be made by check or wire transfer drawn on the Operating Account. Manager agrees to maintain appropriate records and receipts for all sums disbursed from any petty cash account, if any, maintained by Manager for the Property. Such records and reports shall be included in each applicable Monthly Report. Manager shall not be obligated to make any advance to or for the account of Master Tenant or to pay any sums, except out of funds held in any account maintained under this Section 3.2, nor shall Manager be obligated to incur any liability or obligation for the account of Master Tenant without assurance that the necessary funds for the discharge thereof will be provided. In the event that there are insufficient funds in the Operating Account to allow Manager to pay obligations or expenses of the Property, Manager shall provide written notice to Master Tenant of the amount of the estimated deficiency.

g) Master Tenant may change depository bank or the depository arrangements at any time by providing prior written notice to Manager.

h) Manager shall not be responsible for ensuring that the balances of the Operating Account is fully insured by federal or other deposit insurance. Except to the extent Manager is required to indemnify a Manager Indemnified Party pursuant to Section 4, Manager shall not be responsible for any loss of funds maintained in the Operating Account or security deposit Account, including, without limitation, losses due to third-party fraud, security breaches, or hacking or phishing schemes perpetrated on such accounts. Master Tenant shall participate, at Master Tenant's expense, in any fraud detection and prevention program offered by the depository institution at which the Operating Account and the security deposit Account are established.

3.3 Reimbursable Expenses. Manager may be reimbursed out of the Operating Account for (A) the amounts set forth on Exhibit C hereto, and (B) the gross salary and wages, payroll taxes, insurance, worker's compensation, reasonable training expenses, and other benefits of Manager's employees required to properly, adequately, safely and economically manage, operate, and maintain the Property, provided that: (i) such employees have been identified and enumerated in the Annual Budget as may be amended from time to time with the prior written consent of Master Tenant, (ii) payments of gross salary and wages and other amounts are consistent with the amounts set forth in the Annual Budget (as may be amended from time to time with the prior written consent of Master Tenant), and (iii) such amounts are set forth in and otherwise consistent with the Annual Budget or are otherwise permitted hereunder. In addition, the reasonable and actual out-of-pocket, third party expenses incurred by Manager in the performance of its services under this Agreement, but in all cases solely to the extent set forth in the Annual Budget or otherwise permissible under Section 2.1(b), shall also be the responsibility of Master Tenant, provided, however, that Master Tenant shall in no event be obligated to reimburse Manager for any of the following expenses (all of which shall be the sole responsibility of Manager):

a) Cost of gross salary and wages, payroll taxes, insurance, worker's compensation, and other benefits of Manager's office personnel not identified in the Annual Budget or otherwise permissible under Section 2.1(b);

b) Cost of general accounting and reporting services which are considered to be within the reasonable scope of Manager's responsibility to Master Tenant;

c) Costs for office equipment or office supplies of Manager for Manager's headquarters, for any overhead expenses of Manager, for any salaries of any executives of Manager, or for any salaries or wages applicable to time spent on projects other than the Property;

d) Cost of forms, papers, ledgers, and other supplies and equipment used by Manager at any office other than Manager's office at the Property;

e) [Reserved];

f) Political or charitable contributions;

g) Cost of advances made to employees and cost of travel by Manager's employees or agents to and from the Property, unless otherwise approved by Master Tenant;

h) Cost attributable to losses arising from Manager's gross negligence or fraud;

i) Cost of comprehensive crime insurance or fidelity bond purchased by Manager for its own account;

j) Training expenses (other than reasonable costs of training Manager's personnel working at the Property, in each case, in accordance with and to the extent included in the Annual Budget);

k) Cost of maintaining Manager's office space when Manager's office is not located at the Property;

l) Cellular telephone or car telephone charges; and

m) Travel and entertainment charges unless approved in advance in writing by Master Tenant or in the approved budget.

3.4 Term of Agreement and Termination.

a) This Agreement shall commence on the Effective Date and shall continue at all times Master Tenant leases the Property pursuant to the Master Lease unless sooner terminated in accordance with Section 3.4(b) or Section 3.4(c) below (the "Term").

b) Master Tenant may terminate this Agreement without cause upon thirty (30) days' prior written notice to Manager, such termination to be effective as of the date specified in such notice (but in no event shall such termination effective date be earlier than thirty (30) days after such notice is given). In the case of a termination pursuant to this Section 3.4(b), Manager will be entitled to compensation, as calculated in accordance with this Article III, through the date specified in such notice of termination. Manager may terminate this Agreement without cause upon thirty (30) days' prior written notice to Master Tenant, such termination to be effective no earlier than thirty (30) days after such notice has been given.

c) Without limiting the provisions of Section 3.4(b) above, this Agreement and the employment of Manager may be terminated at the option of Master Tenant or Manager as follows:

1) If Master Tenant or Manager shall default in the performance of any of its obligations under this Agreement consistent with the standards required by this Agreement and shall thereafter fail to cure or remedy such default within thirty (30) days after receipt of written notice to cure from the other party hereto (or such longer period of time as may be reasonably necessary under the circumstances, provided such party commences curing the default within such thirty (30) day period and thereafter diligently pursues such cure to completion, provided that the total cure period shall in no event exceed sixty (60) days, in the aggregate), the non-defaulting party may terminate this Agreement;

2) If Master Tenant or Manager shall fail to pay any amounts as and when required to be paid to the other party under the terms of this Agreement that has not been remedied within twenty (20) days after written notice by the non-defaulting party reasonably detailing such default, the non-defaulting party may terminate this Agreement;

3) If a voluntary petition in bankruptcy or reorganization is filed by or with respect to Manager or Master Tenant in any court pursuant to any state, local, federal or foreign law, or for the appointment of a receiver or trustee of all or a substantial portion of Manager's or Master Tenant's property, or if Manager or Master Tenant makes an assignment for or petitions for or enters into an arrangement for the benefit of creditors generally, or if an involuntary petition in bankruptcy is filed against Manager or Master Tenant which is not dismissed within forty-five (45) days after filing, in either case the other party hereto may terminate this Agreement;

4) Upon the taking, through lawful condemnation proceedings by any governmental authority, of the entire Property, or if such portion of the Property shall be taken or condemned so as to make it imprudent or unreasonable, in the opinion of Master Tenant, to continue to operate the Property, Master Tenant may terminate this Agreement;

5) If Master Tenant sells or otherwise disposes of all or a substantial portion of the Property, either Master Tenant or Manager may terminate this Agreement effective as of the effective date of such transfer; provided that, Master Tenant shall use reasonable efforts to provide Manager with at least thirty days' prior written notice in advance of the closing date of such sale;

6) Upon the loss by Master Tenant of the right to possession of the Property or the right to collect the income from the Property, due to Owner's default under any of the Loan Documents or other obligation, or by operation of law, either Master Tenant or Manager may terminate this Agreement upon thirty (30) days' notice;

If Manager shall breach its obligations under this Agreement to: (1) account for funds belonging to Master Tenant; (2) deposit all sums collected from the operation of the Property in accordance with the provisions of Section 3.2 hereof; or (3) distribute funds to Master Tenant pursuant to the provisions of Section 3.2 hereof, to the extent required therein, Master Tenant may terminate this Agreement immediately;

7) This Agreement shall terminate immediately upon thirty (30) days' prior written notice to Manager as a result of the exercise by the holder or servicer of any Loan of any right to terminate or to cause Master Tenant to terminate this Agreement contained in the Loan Documents;

8) Master Tenant may immediately terminate this Agreement upon written notice to Manager if, at any time during the Term, Manager (or any of the principals of Manager) misappropriates any funds of Master Tenant, commits fraud, a crime consisting of moral turpitude, embezzlement (in each case, regardless whether such fraud, crime or embezzlement relates to the Property, Master Tenant or an unrelated matter), or any other felony which is likely to materially impact the ability of Manager to manage the Property or is likely to cause material harm to the reputation of Master Tenant or its direct or indirect owners; and

9) An act or omission constituting willful misconduct by either party, in which case the non-defaulting party may terminate this Agreement immediately upon written notice to the defaulting party.

3.5 Termination Due to Sale of the Property. For up to three (3) months following the sale of the Property, upon Master Tenant's request and at Master Tenant's expense, Manager shall reasonably cooperate with Master Tenant and/or Owner in connection with the sale to resolve all outstanding matters relating Master Tenant's period of leasing of the Property during which Manager managed the Property, including, without limitation: (i) collection of unearned insurance premium refunds, tax refunds, utility deposits refunds and other amounts owing to Master Tenant to the extent relating to or in connection with Manager's services under this Agreement, and (ii) payment of all amounts owed by Master Tenant to vendors, contractors or others, up to the date that the sale of the Property is closed; provided, however, that Manager is not obligated to incur any additional out-of-pocket expenses in connection with the foregoing and Manager shall not be liable for any losses arising from or relating to such assistance. Subject to Manager's receipt of the Extended Financial Services Fee (as defined below), Manager shall continue to provide the Monthly Reports set forth in Section 2.10(b) hereof (excluding the property condition report, a variance report, and a rent roll which reports shall no longer be applicable because the Property shall have been sold) until all matters have been resolved, or Master Tenant directs otherwise.

3.6 Duties Upon Termination.

a) Neither the expiration nor earlier termination of this Agreement will release either party from liability for its failure to perform any duties or obligations under this Agreement.

b) Upon the expiration or termination of this Agreement, Manager will promptly:

1) Surrender and deliver to Master Tenant possession of the Property, and all revenue, monies, property or other assets of Master Tenant, including, but not limited to, all funds in the accounts described in Section 3.2; provided, however, Master Tenant acknowledges and agrees that the Operating Account shall remain in place until Manager pays from the Operating Account all liabilities and obligations incurred prior to the effective date of such termination; provided that the Operating Account shall be closed no later than the three-month anniversary of the termination of this Agreement. From the effective date of the termination of this Agreement, Master Tenant shall cause

the Operating Account to have sufficient funds to pay all such outstanding liabilities and obligations.

2) Deliver to Master Tenant all materials, supplies, keys, contracts, accountings, reports, books and records pertaining to the Property or this Agreement in Manager's actual or constructive control; provided, however, that Manager shall be permitted to retain copies of the books and records as may be necessary so that Manager has access to appropriate records to comply with any requirements under applicable law.

3) Confirm in writing the termination or assignment to another property manager designated by Master Tenant or a purchaser of the Property (as directed by Master Tenant) of any licenses and permits relating to the operation and maintenance of the Property and in the name of Master Tenant as Master Tenant will require if such licenses and permits are assignable; provided, however, that Manager shall not be required to assign any such licenses or permits that Manager may maintain for its general business purpose, even though such permits may affect or are used at the Property.

4) Deliver to Master Tenant a final accounting reflecting the balance sheet, the gross revenues and expenses of the Property as of the date of the termination or expiration, certified by an authorized officer of Manager to be true and correct in all material respects; provided however, Manager shall have no obligation to provide accounting services relating to the pre-termination operation of the Property for more than sixty days after the termination of this Agreement, unless Manager is required by law to provide such accounting services for a longer period, in which case, Manager shall provide such accounting services for the duration required by law, but shall be paid the Extended Financial Services Fee (as defined below).

5) Deliver to Master Tenant or Master Tenant's designee any personal property of Master Tenant then held by Manager.

6) Deliver to Master Tenant or Master Tenant's designee all original Leases, receipts for deposits, insurance policies, unpaid bills, correspondence and any other documents that are the property of Master Tenant but in the possession of Manager at the time of such expiration or termination.

c) Upon any expiration or termination of this Agreement, all earned but unpaid Management Fees and other compensation (including reimbursable expenses) will be paid by Master Tenant to Manager in full within thirty (30) days of expiration or termination of this Agreement so long as the foregoing provisions of this Section 3.6 have been satisfied, and such fees and expenses are evidenced by appropriate invoices.

d) If Master Tenant requests that Manager provide the following services, additional fees as specified shall be payable by Master Tenant within thirty days of receipt of an invoice from Manager: (A) a fee equal to $5.00 per unit, per month, for accounting services performed by Manager more than sixty days after the termination of this Agreement (the "Extended Financial Services Fee"), plus out-of-pocket expenses incurred by Manager with respect to such services; (B) a fee equal to $750.00 for post-closing reconciliations or prorations prepared by Manager in connection with the sale of the Property; and (C) a fee as agreed upon by Master Tenant and Manager with respect to any specialized or non-customary transition services or reports.

e) Upon termination of this Agreement, Master Tenant shall remain liable for and assume all obligations relating to the Property, including obligations under Contracts executed by Manager under this Agreement.

3.7 Early Termination Fee. Should Manager's services be terminated: (i) by Master Tenant pursuant to Section 3.4(b), (ii) by Manager pursuant to Section 3.4(c), (iii) due to a sale of the Property to a third party not affiliated with Master Tenant where Manager has not entered into a new agreement to manage the Property with the buyer in the sale or other transfer of the Property, and the effective date of termination under clauses (i), (ii), or (iii) is before the twelve (12) month anniversary of the Commencement Date, Manager shall be paid an early termination fee equal to one month's Management Fee multiplied by two (the "Early Termination Fee"). Master Tenant shall pay the Early Termination Fee within five days after the effective date of any such termination. For purposes of calculating the Early Termination Fee, the Management Fee shall be calculated by averaging the Management Fee paid during the three, full months prior to the termination of the Agreement. If the Agreement is terminated prior to stabilization (as set forth in the Annual Budget or communications between the parties), the Management Fee shall be the greater of: (i) the most recent, full month's Management Fee or (ii) the budgeted Management Fee for the first full month after the Property would be stabilized. The parties agree that the Early Termination Fee is designed to reasonably compensate Manager for its costs incurred in taking on the management of the Property for a short term and Manager's investment in time, resources and employees in that endeavor, which costs would be extremely difficult, if not impossible, to specifically calculate with any degree of accuracy.

Article IV
Indemnification.

4.1 Indemnification of Manager. Except to the extent set forth in Section 4.2, Master Tenant agrees to defend, indemnify and hold Manager Indemnified Parties harmless from all expenses, claims, liabilities, losses, judgments or damages, including reasonable attorneys' fees (collectively, "Damages"), alleged by third parties which Manager may suffer or incur to the extent attributable to or as a result of, or in any way arising out of, (i) Manager's service as property manager for the Property, including the performance of its duties thereunder, (ii) in connection with the ownership, maintenance, or operation of the Property, (iii) actions taken by Manager at the written direction of Master Tenant, (iv) a breach of this Agreement by Master Tenant, or (v) the Leases or other housing statutes (provided that, if Manager is found to be in violation of the housing statutes (and not as a result of an action taken by Manager at the direction of Master Tenant), as finally determined by a court of competent jurisdiction, then Manager shall reimburse Master Tenant for all damages awarded and all reasonable costs and expenses incurred by Master Tenant in connection with the defense and cost therewith). Notwithstanding the foregoing, Master Tenant shall not be required to indemnify Manager with respect to (a) any Damages suffered to the extent the same resulted from the willful misconduct, gross negligence or bad faith, in each case on the part of Manager, or otherwise as a result of intentional actions or occurrences of Manager, its agents or employees that are beyond the scope of Manager's authority hereunder, or (b) any Damages that Manager is otherwise is required to indemnify Master Tenant under Section 4.2 below. Master Tenant's indemnification of Manager will also not apply to the extent the Damages are fully covered and paid to Manager by Master Tenant's insurance. It is expressly understood and agreed that the foregoing provisions shall survive the termination of this Agreement to the extent the cause arose prior to termination.

Notwithstanding anything to the contrary in this Agreement, Master Tenant expressly acknowledges and agrees that the indemnification and defense obligations set forth in this Section 4.1 shall apply to the fullest extent permitted by law, including, but not limited to, actions taken by Manager pursuant to this Agreement, even if such claims, damages, or liabilities arise in whole or in part from the negligence (whether active, passive, concurrent, or comparative) of Manager or any Manager Indemnified Party, except to the extent resulting from the gross negligence or willful misconduct of Manager. It is the intent of the parties that

Master Tenant's indemnification and defense obligations in this Section 4.1 provide Manager with the broadest enforceable entitlement to indemnification and defense for its activities undertaken pursuant to this Agreement.

Master Tenant's obligations hereunder include the duty to defend Manager Indemnified Parties (using counsel reasonably acceptable to Manager) in any action or proceeding brought with respect to any matter for which indemnity is provided under this Section.

4.2 Indemnification of Owner and Master Tenant. Manager agrees to defend, indemnify and hold harmless Owner and Master Tenant Indemnified Parties from and against any and all Damages to the extent attributable or in any way arising out of any (a) willful misconduct, gross negligence, in each case on the part of Manager or otherwise as a result of intentional acts or occurrences outside the scope of Manager's authority hereunder, (b) acts of Manager, its agents or employees that are beyond the scope of Manager's authority hereunder, or (c) employment-related matters between Manager and its employees. Manager's indemnification of Owner and Master Tenant will also not apply to the extent the Damages are fully covered and paid to Owner or Master Tenant by Owner's or Master Tenant's insurance. It is expressly understood and agreed that the foregoing provisions shall survive the termination of this Agreement to the extent the cause arose prior to termination.

4.3 Claims. For purposes of this Article IV, "Indemnified Party" and "Indemnitor" shall mean Manager and Master Tenant, respectively, as to Section 4.1 and Owner and Master Tenant, and Manager, respectively, as to Section 4.2. If any action or proceeding is brought against the Indemnified Party with respect to which indemnity may be sought under this Article IV, the Indemnified Party seeking indemnification will give prompt written notice to the Indemnitor of such third party claim that may give rise to such indemnification, provided that any failure or delay in providing timely notice shall not affect the rights or obligations of the Indemnified Party except to the extent that, as a result of such failure, the Indemnitor shall have been prejudiced by the Indemnified Party's failure to give such notice, in which case the Indemnitor shall be relieved from its obligations hereunder only to the extent of such prejudice. If the Indemnitor elects to conduct the defense of the third party claim, the Indemnified Party will cooperate with and make available to the Indemnitor such assistance, personnel, witnesses and materials as the Indemnitor may reasonably request. The Indemnitor may elect at any time to negotiate a settlement or a compromise of such action or claim or to defend such action or claim, in each case at its sole cost and expense and with its own counsel. If, within thirty (30) days of receipt from an Indemnified Party of the notice referred to above, the Indemnitor (i) advises the Indemnified Party in writing that it shall not elect to defend, settle or otherwise compromise or pay such action or claim or (ii) fails to make such an election in writing, the Indemnified Party may (subject to the Indemnitor's continuing right of election in the preceding sentence), at its option, defend, settle, compromise or pay such action or claim; *provided* that any such settlement or compromise shall be permitted hereunder only with the written consent of the Indemnitor, such consent not to be unreasonably withheld, conditioned or delayed. The Indemnitor shall not settle any third party claim subject to indemnification under this Article IV against an Indemnified Party where the Indemnified Party is not released from liability resulting from such third party claim without the Indemnified Party's consent.

4.4 Limitation on Liability.

a) **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NEITHER MASTER TENANT NOR MANAGER SHALL BE LIABLE FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY INDIRECT, CONSEQUENTIAL (EXCEPT ATTORNEYS' FEES AND COSTS TO BE PAID UNDER AN INDEMNITY SPECIFICALLY UNDERTAKEN UNDER THIS AGREEMENT), SPECIAL, INCIDENTAL, PUNITIVE OR OTHER EXEMPLARY LOSSES OR DAMAGES, WHETHER IN TORT, CONTRACT, INDEMNITY, OR OTHERWISE, REGARDLESS OF THE FORESEEABILITY, PRIOR NOTICE, OR CAUSE THEREOF, THAT WOULD NOT**

OTHERWISE BE COVERED UNDER THE STANDARD LIABILITY OR PROPERTY INSURANCE REQUIRED OF THE PARTIES HEREUNDER.

b) **MANAGER SHALL NOT BE LIABLE FOR DAMAGES IN EXCESS OF THE GREATER OF (I) TWO HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS ($250,000.00) AND (II) EIGHTEEN (18) TIMES THE AVERAGE (ARITHMETIC MEAN) OF THE MANAGEMENT FEES EARNED BY MANAGER AND PAID BY MASTER TENANT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN QUESTION, OR THAT LESSER PERIOD IF MANAGER HAD NOT THEN MANAGED THE PROPERTY FOR TWELVE CONSECUTIVE MONTHS; PROVIDED, HOWEVER, THAT THIS LIMIT SHALL NOT APPLY TO CLAIMS ARISING FROM MANAGER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

Article V
Cooperation with Sale of Property.

5.1 **Sale of Property.** If Owner executes a listing agreement with a broker for sale of Owner's interest in the Property, Manager shall provide reasonable cooperation with such broker. Manager will permit the broker to exhibit the Property during reasonable business hours provided the broker has secured Manager's permission in advance. Manager will direct all requests for information and all inquiries from Broker to Owner before providing information to Broker.

Article VI
Miscellaneous

6.1 **Successors and Assigns; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided, however, that neither party shall assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement, whether by merger, reorganization, operation of law or otherwise without the prior written consent of the other party. Notwithstanding the foregoing, Master Tenant may assign its rights and obligations to any successor in title or its leasehold interest, to the Property upon prior written notice to Manager, provided that Manager shall use commercially reasonable efforts to provide Manager with no less than thirty (30) days' prior written notice. Furthermore, Manager recognizes and consents to the assignment by Master Tenant of its rights and obligations under this Agreement as security for any Loan obtained with respect to the Property and in furtherance thereof, Manager agrees to execute a commercially reasonable form of assignment and subordination agreement pertaining to this Agreement in favor of such lender(s). Notwithstanding the foregoing, either party may assign this Agreement to an Affiliate without the consent of the other party.

6.2 **Notices.** Any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if (i) delivered personally to the party to whom the same is directed at the address set forth below, (ii) sent by registered or certified mail, postage and charges prepaid, addressed to the appropriate party's address set forth below, or (iii) sent by e-mail to the appropriate party's e-mail address set forth below:

In the case of Master Tenant, all notices shall be sent to:

FREX DB Leaseco Series I LLC
c/o Fortress Investment Group LLC
4550 Travis Street
Dallas, Texas 75205

Attention: David Moson
Email: dmoson@fortress.com

And:

c/o Fortress Investment Group LLC
1345 Avenue of the Americas, 46th Floor
New York, NY 10105
Attention: General Counsel – Credit Funds
E-Mail: gccredit@fortress.com

With a copy to:

c/o Fortress Investment Group LLC
2494 Sand Hill Road
Menlo Park, CA 94025
Attn: Eli Edwards
Email: eedwards@fortress.com

And:

c/o Fortress Investment Group LLC
2494 Sand Hill Road
Menlo Park, CA 94025
Attention: David Hammerman

And:

Baker & McKenzie LLP
300 E. Randolph St., Suite 5000
Chicago, IL 60601
Attn: Daniel Cullen
Email: Daniel.Cullen@bakermckenzie.com

In the case of Manager, all notices shall be sent to:

GREP Atlantic, LLC
999 S. Shady Grove Rd., Suite 600
Memphis, TN 38120
Attention: Jennifer King
Email: jennifer.king@greystar.com

With a copy to:

Greystar Management Services
600 E. Las Colinas Blvd., Suite 2100
Irving, Texas 75039
Attention: Managing Director, Legal Services
Email: legalnotices@greystar.com

A party may change its address by notice given in accordance with this Section 6.2. Mailed notices shall be deemed to be given or effective three (3) Business Days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforementioned, personally delivered notices shall be deemed to be given when personally delivered, and notices sent by e-mail shall be deemed to be given on the day transmitted, if transmitted on a Business Day prior to 6:00 PM Pacific Time, or otherwise on the next occurring Business Day.

6.3 **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties hereto and all prior discussions and agreements with respect thereto, except to the extent set forth herein, shall be of no further force and effect.

6.4 **Severability.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

6.5 **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Manager and Master Tenant.

6.6 **Article and Section Headings.** Article and Section headings contained in this Agreement are for reference only and shall not be deemed to have any substantive effect or to limit or define the provisions contained therein.

6.7 **Waiver of Trial by Jury**. MASTER TENANT AND MANAGER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. MASTER TENANT AND MANAGER REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.8 **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Delaware, without regard to conflict or choice of law provisions.

6.9 **Waiver and Release of Liabilities.** Notwithstanding any term or condition hereof, Manager shall not file any notice of claim or assert any lien or claim of lien with respect to any amounts that may be due to it hereunder. Manager shall, from time to time, execute such lien waivers and release as may be required by Master Tenant or to otherwise effectuate this provision.

6.10 **Jurisdiction; Venue**. Each of the parties to this Agreement hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of and agrees that venue shall be proper in the District Court of the state where the Property is located, or, to the extent permitted by law, the United States District Court in which the Property is located, and any appellate court from any thereof, in any action or proceeding arising out of or relating to or connected with this Agreement, or for recognition or enforcement of any judgment. Each of the parties to this Agreement hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined in such courts. Each of the parties to this Agreement agrees that a final judgment in any such action or proceeding will be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the parties to this Agreement hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in the above-identified courts. Each of the parties to this Agreement hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

6.11 **Subordination**. This Agreement and the rights and benefits of Manager hereunder

including, but without limitation, any lien rights granted to Manager by the state where the Property is located and the rights of Manager to receive payments hereunder are and will be subject and subordinate to the lien and security title of any deed of trust, mortgage, or other security instrument (including any renewal, modification, amendment, consolidation, extension or replacement of any of the foregoing) now or hereafter encumbering the Property. The foregoing subordination is and will be self-operative and no further instrument of subordination will be required to effectuate the provisions of this Section 6.11; provided, however, at Master Tenant's request, Manager will execute, seal and deliver to Master Tenant or Owner's mortgagee such instruments as Master Tenant or Owner's mortgagee may from time to time reasonably request to further evidence and confirm the subordination effected hereby.

6.12 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Reproductions (photographic, facsimile or otherwise) of this Agreement may be made and relied upon to the same extent as though such reproduction was an original.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK, SIGNATURES ON NEXT PAGE]

Executed to be effective as of the Effective Date.

MASTER TENANT:

FREX DB LEASECO SERIES I LLC,
a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

MANAGER:

GREP ATLANTIC, LLC,
a Delaware limited liability company

By: _____
Name: Tom Bisanz
Title: _____

Docusign Envelope ID: 7EBC711E-CFEC-432A-AA22-5F3B8E289173

Executed to be effective as of the Effective Date.

MASTER TENANT:

FREX DB LEASECO SERIES I LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

MANAGER:

GREP ATLANTIC, LLC,
a Delaware limited liability company

Signed by:
By: Jennifer King
AA8875E6B63K45B...
Name: Jennifer King
Title: Authorized Signatory

EXHIBIT A
Name, Location and Description of the Property Subject to this Agreement

TRADE NAME	ADDRESS
Domain at Town Centre Apartments	5000 Domain Dr, Morgantown, WV 26501

EXHIBIT B
INITIAL ANNUAL BUDGET
[See Attached]

GREYSTAR

Domain at Town Centre

University:	West Virginia University
City:	Morgantown
State:	WV
On-Campus/Off-Campus:	Off-Campus
Year Built:	2012
Total Beds:	912
Total Units:	336

Annual Budget

	Annual Budget	Per Bed	Per Unit	Notes
INCOME				
Market Rent	$8,659,894	$9,495	$25,773	
Potential Rent	**$8,659,894**	**$9,495**	**$25,773**	
Concessions	($306,060)	($336)	($911)	
Net Potential Rent	**$8,353,834**	**$9,160**	**$24,863**	
Vacancy Loss	($606,193)	($665)	($1,804)	Assumed 7% total vacancy
Non Revenue Beds	($77,508)	($85)	($231)	
Bad Debt	($56,289)	($62)	($168)	Assumed .65% Bad Debt
Total Rental Income - Residential	**$7,613,845**	$8,349	$22,660	
Total Other Income - Residential	$892,131	$978	$2,655	
Total Income	**$8,505,976**	**$9,327**	**$25,315**	
EXPENSES				
Controllable Expenses				
Payroll	$886,487	$972	$2,638	
Repairs & Maintenance	$105,998	$116	$315	
Turn & Make-Ready	$174,000	$191	$518	
Contract Services	$538,336	$590	$1,602	
Advertising/Marketing/Promotions	$211,639	$232	$630	
Office	$51,923	$57	$155	
Other G&A	$50,271	$55	$150	
Utilities	$864,899	$948	$2,574	
Total Controllable Expenses	**$2,883,553**	**$3,162**	**$8,582**	
Non-Controllable Expenses				
Management Fees	$255,179	$280	$759	3% or $10,500 per month minimum
Taxes	$503,299	$552	$1,498	Greystar recommends consulting a Tax professional
Insurance	$247,485	$271	$737	Greystar recommends consulting Willis Towers Watson
Total Non-Controllable Expenses	**$1,005,963**	**$1,103**	**$2,994**	
Total Operating Expenses	**$3,889,516**	**$4,265**	**$11,576**	
NET OPERATING INCOME				
Net Operating Income	**$4,616,460**	**$5,062**	**$13,739**	
Expense Margin	*46%*			

NOTE: The annual figures provided above are intended solely for high-level estimation purposes only. These figures are not a substitute for a detailed and comprehensive budgeting process as agreed within the Property Management Agreement.

EXHIBIT C
REIMBURSEMENTS

The table below identifies operating expenses that are critical to Manager's ability to operate the property in a professional, efficient and competitive manner. These expenses are sometimes aggregated at a portfolio level by Greystar and then allocated to the properties that it manages. By doing so, Greystar can secure volume pricing, ensure consistency in scope, enforce quality controls and reduce the time required of on-site staff to focus on these products and services. The fees and expenses set forth in the table are supplemental to the Management Fee. These fees and expenses are the rates for the calendar year of the execution of this Agreement and may be subject to periodic increases or decreases in future years but will be set forth in the Approved Budget.

CATEGORY	DESCRIPTION	CURRENT CHARGE
Bank Fee(s)	Banking Institutions Includes all banking costs, online platform access, transaction processing, and fraud protection. Top Six banks • Bank of America • Capital One • J.P. Morgan • KeyBank • US Bank • Wells Fargo	**Top Six Banks Pricing** • $175 monthly for 2 accounts (Operating and Security Deposit) • $100 monthly additional for a separate depository account. **Other Banks Pricing** • $300 monthly for 2 accounts (Operating and Security Deposit) • $100 monthly additional for a separate depository account. All special services requested by owner and set-up by Greystar Treasury will be assessed a monthly administrative charge of $50, per account. Additionally,

		the actual bank charges (to include bank implementation fees) will be passed through to the owner.
Technology Fee	The Greystar Technology Fee includes an array of products and services that are essential to the operation of the community. Note that the package requires the license of MS Office 2010 or higher for all PCs. The Greystar Technology Fee includes an array of products: • Web based email accounts for property team members • Virus Protection, internet filtering, firewall and spyware protection for each property PC • Centralized, managed data storage of property files • Access to reports stored on Owner Portal • Phone support and desktop support for technical issues • Use of the Greystar web-based Property Budgeting platform Host Analytics	**Beds** — **Amount** <= 250 — $390/Month 251 – 400 — $430/Month 401 – 500 — $465/Month 501+ — $515/Month

CATEGORY	DESCRIPTION	CURRENT CHARGE
Marketing Operations Fee (Student)	Greystar provides a national team of property marketing professionals that extend and enhance the services provided by our regional and owned-asset property marketing teams. The national Marketing Operations team is comprised of subject matter experts who ensure each community remains competitive in today's complex marketing environment. Services include: • Consulting, property support, & training* • Lowest prices & most favorable contract terms with 30+ marketing suppliers • Customer experience programs that drive engagement and leasing activity • Resident satisfaction insights and automated issue resolution platform • Innovation test & learn team (existing and potential preferred marketing suppliers) • Value-add visual media services^ • Marketing toolkit: guides, checklists, planners, & budget tools	$450 per month
Team Member Development	Includes all Greystar Advantage Solutions preferred software platforms training, Onboarding, Customer Services, Sales, Maintenance and Operations training provided by Greystar, including Fair Housing, Sexual Harassment training required by law. Unlimited access to career and industry-related training virtually or through Greystar's customized online and on demand training library. New team members receive a personalized and comprehensive onboarding experience providing essential job skills for their role with Greystar.	**Beds** / **Monthly Fee** 250 and under / $297 251 – 400 / $352 401 – 500 / $379.50 501+ / $434.50
Award Ceremony	Attendance at Annual Awards Ceremony	$100 per employee annually

EXHIBIT D
Leasing Criteria
[See attached]

Resident Qualification Acknowledgment

To assist you with your decision on your new home, we are providing this list of requirements we use to qualify applicants for residency at this community. Nothing contained herein shall constitute a representation that all residents and/or occupants currently residing in our community have met or currently meet these guidelines. Each person, age 18 or older, who will live in the apartment home must submit an application and satisfy these requirements. Subject to applicable laws, our requirements include, but are not limited to, the following criteria:

IDENTIFICATION. Applicants must present a valid government issued photo identification card for each person who is age 18 or older.

INCOME. All applicants must have a combined verifiable monthly source of income in an amount no less than 3 times the rental rate. If this criterion is not met, the applicant will be required to obtain a qualified guarantor. **Scholarships, study subsidies and/or inconsistent income (commissions or tips) will require written verification**.

CREDIT HISTORY. We obtain a credit report for each applicant. Our credit reporting agency evaluates credit (which may include rent payment history) as an indicator of future rent payment performance. An unsatisfactory or insufficient finding will result in the requirement of a qualified guarantor or in denial. Applicants that do not have credit history or a qualified guarantor may be conditionally approved and **required to pay an additional deposit and/or advance rent payment made with a credit card or e-money order.**

GUARANTORS. If a guarantor is needed, he/she/they must meet the entire qualifying criteria as presented above. All guarantors must have a verifiable source of income in an amount not less than 3 times the rental rate. The guarantor must meet the criteria presented above throughout the entire duration of the applicable lease period. **Guarantors will be held fully responsible for the lease should the occupying resident default**.

SECURITY DEPOSIT. This community will accept a security deposit equal to two (2) installments of rent if an approved guarantor cannot be provided.

CRIMINAL HISTORY. We obtain a criminal background check for each applicant who will reside in the apartment home. Applicants may be denied due to criminal convictions.

OCCUPANCY. The maximum number of residents permitted to dwell in an apartment home shall not exceed one (1) occupant per bedroom (plus an infant under the age of 24 months) unless the unit is designated as a double occupancy unit. If the unit is a one bedroom or studio apartment, the maximum number of residents permitted to dwell in an apartment home shall not exceed two (2) occupants (plus an infant under the age of 24 months). Please see your leasing representative for any exceptions allowed under this community's rules.

PETS. The following breeds or mix of breeds, as well as any other breeds considered to be "aggressive," are restricted from this community:

Pit Bull Terriers/ Staffordshire Terriers	Rottweilers
Doberman Pinschers	Chows
Presa Canarios	Akitas
Alaskan Malamutes	Wolf-hybrids

Additional pet and breed restrictions may apply at this community. If you have a pet or pets, please see your leasing representative for more information. These restrictions and deposit requirements do not apply to qualified service or assistance animals.

RENTER'S INSURANCE REQUIREMENT. You may be required to carry a minimum of $100,000 Personal Liability Insurance coverage. To satisfy this requirement, you must provide evidence of insurance coverage at move-in and maintain this coverage throughout the entire term of your residency. In addition, we may require that you add our community as an "Interested Party," "Party of Interest," or similar language. Your lease will have additional details about the insurance requirements.

DATA AND COMMUNICATION. You understand and accept that we may collect, retain, use, transfer, and disclose personal information, such as the first name, last name, email address, and phone number of you or your occupants in the unit. We may collect, retain, and use that information, or disclose that information to third parties to, among other things, (a) operate the Property; (b) provide services consistent with the Lease; (c) refer you to third Fparties that provide products or services that may be of interest to you or your occupants in the unit; (d) collect debts; and (e) conduct and analyze resident surveys. Please review the privacy policy of the owner's authorized agent at the time of residence for a discussion of the treatment of information during your lease. The current policy may be viewed at https://www.greystar.com/privacy.

By providing an email address or cell phone number, you consent to receive communications regarding marketing materials, promotional offers, and your application status via e-mail, voicemail, calls, text, and/or any other means. You acknowledge and agree that this authorization is made voluntarily.

The permissions and consents granted herein apply to the owner of the community and the owner's authorized agents/representatives, including its property manager, and will continue even after your lease expires, the owner of the community sells the community, or the property manager no longer manages the community.

FAIR HOUSING STATEMENT. We are committed to compliance with all federal, state, and local fair housing laws. We do not discriminate against applicants based on race, color, religion, national origin, sex, familial status, disability, or any other legally protected classification or status. All persons involved with the leasing and operation of our communities receive training on fair housing laws. We will consider requests for reasonable accommodations based upon a disability. We will consider reasonable modification of existing premises, which may be at the expense of the person requesting the modification.

FALSIFICATION OF APPLICATION. Any false statements or false information included in an application may result in denial of the application.

APPLICANT APPROVAL ACKNOWLEDGEMENT. Applicant acknowledges and agrees that the criteria referenced above will be considered in the qualification process. Applicants who do not meet the requirements referenced above may be declined or be subject to additional requirements, including, but not limited to, additional fees, deposits, rent or providing a guarantor.

EXHIBIT E
Advantage Solutions Additional Services
[See attached]

Greystar Entrata Stack

Technology Systems*	
Accounting	Yardi Voyager 7s
PMS	Entrata Core
Property Inspections/Mobile Maintenance	Happy Property
Market Survey	HelloData
Expense Management	RealPage Spend Management
Property Websites	Entrata
ILS Syndication	Entrata ILS Portal
Leasing Tablet (software only)	Entrata SiteTablet
Lead Management	Entrata Lead Manager
Interactive Site Map	Engrain
End-to-End Leasing	Entrata LeaseExecution
Screening	Entrata Resident Verify
Resident Services	Entrata Resident Portal
Lease Renewal	Entrata Resident Portal
Online Payments	Entrata Resident Pay
Move-In Concierge	Updater Pro
Resident Satisfaction	Kingsley Surveys
Resident Experience App	Living by Greystar
Resident Insurance	
Resident Insurance	Assurant Resident Insurance Cover360
Energy + Sustainability Services	
Utility Billing Management	Conservice
Sustainability Tier	Foundation Level
Procurement	
National Accounts	Greystar
Supplier Compliance	Greystar NetVendor
Receivables	
Post-Tenancy Collections	Greystar Receivables
Debt Management	Greystar Receivables
Deposit Replacement	Rhino + Jetty
Rental Credit Reporting	Resident Link/Bilt
Flexible Rent Payments	Flex

* *Cannot be broken*

Click here to access
Entrata Stack Options

GREYSTAR

ADVANTAGE SOLUTIONS

SCHEDULE 2.3(b)

VENDOR REQUIREMENTS

Greystar standard vendor requirements are assigned based on the trade type, which is separated into the seven tiers set forth in the table below. Greystar will require reasonable evidence that each vendor or supplier will maintain the following requirements, based upon the risk tier assigned to such vendor or supplier. A description of the types of vendors and suppliers in each tier is available upon request.

COVERAGE	MINIMAL RISK	LOW RISK	MODERATE RISK	HIGH RISK	OFF-SITE PROFESSIONAL	EXEMPT	NO INSURANCE REQUIRED
GENERAL LIABILITY							
Each Occurrence	$1,000,000	$1,000,000	$1,000,000	$1,000,000	Not Required	Not Required	Not Required
Personal & Advertising Injury	$1,000,000	$1,000,000	$1,000,000	$1,000,000	Not Required	Not Required	Not Required
Aggregate	$2,000,000	$2,000,000	$2,000,000	$2,000,000	Not Required	Not Required	Not Required
Products-completed Operations	$2,000,000	$2,000,000	$2,000,000	$2,000,000	Not Required	Not Required	Not Required
EXCESS LIABILITY							
Each Occurrence	not required	$1,000,000	$2,000,000	$3,000,000	Not Required	Not Required	Not Required
Aggregate	not required	$1,000,000	$2,000,000	$3,000,000	Not Required	Not Required	Not Required
AUTO LIABILITY							
Combined Single Limit, OR	$1,000,000	$1,000,000	$1,000,000	$1,000,000	Not Required	Not Required	Not Required
Bodily Injury Per Person	$500,000	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required
Bodily Injury Per Accident	$500,000	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required
Property Damage Per Accident	$500,000	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required
WORKERS' COMPENSATION/EMPLOYERS' LIABILITY							
Statutory limits	Yes	Yes	Yes	Yes	Not Required	Not Required	Not Required

COVERAGE	MINIMAL RISK	LOW RISK	MODERATE RISK	HIGH RISK	OFF-SITE PROFESSIONAL	EXEMPT	NO INSURANCE REQUIRED
EL Each Accident	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required	Not Required
EL Disease-Each Employee	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required	Not Required
EL Disease-Policy Limit	$500,000	$500,000	$500,000	Not Required	Not Required	Not Required	Not Required
Workers' Comp Exemption Form acceptable.	Yes	Yes	Yes	Yes	Yes	Not Required	Not Required
PROFESSIONAL LIABILITY							
Each Claim	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	Not Required	Not Required
ENVIRONMENTAL/HAZARD LIABILITY							
Each Claim	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	Not Required	Not Required
CYBER LIABILITY							
Each Claim	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	Not Required	Not Required

[further requirements on following page]

ADDITIONAL INSURED VERBIAGE	DOCUMENTS COLLECTED	SCREENINGS/VERIFICATIONS
Each supplier will name the management and ownership entities as additional insureds on their liability policies. The following wording should be included on their certificate of insurance: Greystar Management Services, its affiliates, and the ownership entities of their owned or managed properties are included as additional insureds on the general liability policy. Insurance is primary and noncontributory. Excess policy to follow form (if applicable).	• Vendor Performance Agreement • Professional License(s) where applicable • W-9 • Proof of Insurance including required Endorsement(s) • Minority Owned Business certificate(s)	• Rating of A- or better as reported by the A.M. Best Company, Inc. for the most recent reporting period. • Screening performed on 2 principals with 25% ownership, or more, of the entity. • BBB • Government Watch Lists: OFAC, Money Laundering Database, Terrorist Watch List and FBI Most Wanted. Federal Laws tied to the 2001 Patriot Act, The Money Laundering Act and Executive Order 13224 • Criminal Screenings

SCHEDULE 2.3(c)

FORM OF RESIDENTIAL LEASE

[See Attached]

RESIDENT FEES DISCLOSURE

This Resident Fees Disclosure ("Disclosure") is incorporated and is made part of the Lease Contract (the "Lease") dated 02/27/2026 between CPI-GREP Domain Owner, LLC (the "Owner," "we") and (the "Resident," "you"), for Unit No. (if applicable) _____ located at 5000 Domain Dr (street address) in Morgantown, WV 26501 (city, state, zip code).

This Lease contains all deposits, rent, fees and other charges you may owe. No additional monthly rent or fees or deposits shall be charged unless it is incorporated into this agreement by way of a separate addendum after execution of the rental agreement.

TOTAL MONTHLY LEASING PRICE (TMLP)

Includes:

- Base Rent
- Mandatory Fixed Monthly Fees
- Optional Fixed Monthly Fees (if elected)

Excludes:

- Recurring monthly discounts and/or concessions
- Variable/usage-based fees
- One-time fees, deposits
- Utilities and other charges paid to third parties
- Move-in/move-out charges

The TMLP for the leased premises is: $ _____*.

BASE RENT

Monthly Base Rent (excludes concessions, discounts, and other fees or expenses): $ _____.

FEES & CHARGES OVERVIEW

The below includes amounts for required, optional and situational fees that may be charged (owed) during Resident's lease term.

Item & Definition	Amount	Method	Frequency/Timing	Charge Type
Security Deposit (Refundable)-Amount intended to be held through residency that may be applied toward amounts owed at move-out. Refunds processed per application and lease terms.	Varies	Per Leaseholder	One-Time/At Application	Optional
Lease Violation-Amount for violation of community policies and/or per lease terms.	Varies	Per Occurrence	Per Occurrence	Situational

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type
Payment Services - Third Party-Amount for using a third party, electronic payment processing service (i.e. credit card, ACH, etc.).	Varies	Per Occurrence	Per Occurrence	Situational
Returned Payment Fee (NSF) -Amount for returned payment.	25.00	Per Occurrence	Per Occurrence	Situational
Late Fee-Amount for paying after rent due date; per terms of lease.	50.00	Per Leaseholder	Per Occurrence	Situational
Intra-Community Transfer Fee-Amount due when transferring to another rental unit within community.	350.00	Per Occurrence	Per Occurrence	Situational
Reletting Fee-Marketing fee related to early lease termination; excludes rent and other charges.	350.00	Per Occurrence	Per Occurrence	Situational
Lease Violation - Trash-Amount for violation of waste-related community policies.	25.00	Per Occurrence	Per Occurrence	Situational
Access Fee - After Hours-Amount for access to rental home after business hours.	50.00	Per Occurrence	Per Occurrence	Situational

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type
Access Device - Replacement-Amount to obtain a replacement access device for community; fobs, keys, remotes, access passes.	25.00-250.00	Per Device	Per Occurrence	Situational
Application Fee-Amount to process application, initiate screening, and take a rental home off the market.	35.00	Per Applicant	One-Time/At Application	Required
Pet Fee-Amount to facilitate authorized pet move-in.	300.00	Per Pet	One-Time/At Move-in	Optional
Administrative Fee-Amount to facilitate move-in process for a resident.	150.00	Per Leaseholder	One-Time/At Application	Required
Early Move-In Fee-Amount to move in earlier than scheduled; excludes rent and other charges. May be subject to availability.	Varies	Per Leaseholder	Per Occurrence/ At Move-in	Optional
Renters Liability Only - Non-Compliance-Amount for not maintaining required Renters Liability Policy.	8.00	Per Unit	Per Occurrence	Situational
Renters Liability/Content - Property Program-Amount to participate in the property Renters Liability Program.	13.00	Per Unit	Per Month	Optional

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type
Renters Liability Insurance - Third Party-Amount for renters liability insurance obtained through resident's provider of choice.	Varies	Per Leaseholder	Per Month	Required
Parking-Amount for parking space/services. May be subject to availability.	10.00-20.00	Per Rentable Item	Per Installment	Situational
Pet Rent-Monthly amount for authorized pet.	30.00	Per Pet	Per Installment	Situational
Utility - Electric-Amount for provision and consumption of electricity.	Usage-Based (Utilities)	Per Leaseholder	Per Installment	Situational
Utility - Billing Administrative Fee-Amount to manage utility services billing.	6.95	Per Leaseholder	Per Installment	Situational

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type

SAMPLE

Item & Definition	Amount	Method	Frequency/Timing	Charge Type

COMMUNITY FEE GUIDE

We actively review and may update the list of fees and charges. To see the current list at any time go to:
https://communityfeeguide.info/15573

SPECIAL PROVISIONS

Resident(s) Date Signed

Owner/Owner's Representative Date Signed

Disclosure Statement: Some fees may not apply to apartment homes subject to an affordable program, and the Total Monthly Leasing Price will exclude those fees. All fees are subject to the terms of the lease. Some items may be taxed under applicable law. Residents are responsible for damage beyond ordinary wear and tear. Optional fees listed above, not originally elected at initial lease signing, might change. Fees listed as percentage are calculated on % of monthly rent, balance owed, or other legal method allowed by law.

SAMPLE

STUDENT HOUSING LEASE CONTRACT

This is a binding document. Read carefully before signing.

General Lease Provisions

1. PARTIES. This Lease Contract ("Lease") is between *you,* the resident:

_____

_____

and *us*, the owner: CPI-GREP Domain Owner, LLC

_____

_____

_____

_____

(name of apartment community or title holder).

2. APARTMENT. You are renting:

☒ Apartment No. _____,
☒ Bedroom No. _____, or
☒ Floor Plan _____

_____

_____

at 5000 Domain Dr

_____

_____

(street address) in Morgantown
(city), West Virginia, 26501 *(zip code)* for use as a private residence only.

When this Lease Contract is signed, all fees are paid and any guarantor paperwork is received, we will set aside a bedroom from our inventory for you. We will notify you of your bedroom assignment prior to move-in if not noted above.

2.1. Use and Occupancy. Your access may include exclusive areas, shared common space in the apartment, and common areas in the property.

We may assign another person to share a bedroom with you. If the apartment has a separate bathroom for each bedroom, you and any other person assigned to your bedroom will have exclusive use of that bathroom.

We do not make any representations about the identity, background or suitability of any other resident, and we are under no obligation to perform any resident screening of any kind, including credit, prior resident history or criminal background. Any disputes that arise are your responsibility to resolve directly in a reasonable manner that complies with this Lease. Disputes are not grounds to terminate this Lease.

You have a non-exclusive right to use other areas in the apartment, including the kitchen, living area, patios/balconies and other shared spaces. Both you and other residents have equal rights to use the space and amenities in the apartment's common area. It is a violation of this Lease to use any spaces not assigned to you, and we have the right to assign a roommate to any vacancy at any time with or without notice.

2.2. Access Devices. In accordance with our policies, you'll receive access devices for your apartment and mailbox, and other access devices including:

_____

_____

_____

_____

3. TERM. The term of the Lease Contract begins on the _____ day of _____, _____ *(year)*, and ends at noon the _____ day of _____, _____ *(year)*. **This Lease does not automatically renew.**

3.1. Holdover. You or any occupant, invitee, or guest must not hold over beyond the date contained in your move-out notice or our notice to vacate (or beyond a different move-out date agreed to by the parties in writing). If a holdover occurs, then (A) holdover rent is due in advance on a daily basis and may become delinquent without notice or demand; (B) rent for the holdover period will be increased by 25% over the then-existing rent, without notice; (C) you'll be liable to us for all rent for the full term of the previously signed Lease Contract of a new resident who can't occupy because of the holdover; ***and*** (D) at our option, we may extend the Lease Contract term—for up to one (1) month from the date of notice of Lease Contract extension—by delivering written notice to you or your apartment while you continue to hold over.

4. RENT AND CHARGES. Your rent for the term is $_____. Under this Lease and in accordance with our policies, your total amount due is payable in advance and without demand in _____ installments of $ _____ each. This amount may include or exclude other fees and charges as outlined in your lease package.

The first installment is due on or before the first (1st) of the month in which this Lease begins. All other payments must be made by the first (1st) of the month in which they are due, with no grace period. This amount is owed by you and is not the total rent owed by all residents.

If you don't pay the first installment by the date above, the total rent for the Lease term may be automatically accelerated without notice and become immediately due. We also may end your right of occupancy and recover damages, future rent, releting charges, attorney's fees, court costs, and other lawful charges. Our rights, remedies and duties under Paragraphs 9 (Early Move-Out; Releting Charge) and 25 (Default by Resident) apply to acceleration under this paragraph. ***You must pay your installments on or before the first (1st) day of the month in which they are due. There is no grace period, and you agree that not paying by the first (1st) of the month is a material breach of this Lease. Cash is not acceptable without our prior written permission. You cannot withhold or offset rent unless authorized by law. Your obligation to pay rent does not change if there is a reduction of amenity access or other services performed by us.*** If you don't pay rent on time, you'll be in default and subject to all remedies under state law and this Lease.

4.1. Payments. You will pay your rent:

❑ at the onsite manager's office
☒ through our online payment site
❑ at _____

_____

_____

_____.

We may, at our option, require at any time that you pay all rent and other sums in cash, certified or cashier's check, money order, or one (1) monthly check rather than multiple checks. At our discretion, we may convert any and all checks via the Automated Clearing House (ACH) system for the purposes of collecting payment. Rent is not considered accepted, if the payment/ACH is rejected, does not clear, or is stopped for any reason. Rent and late charges are due without demand, and all other sums are due upon our demand.

4.2. Application of Money Received. When we receive money, other than utility payments subject to government regulation, we may apply it at our option, and without notice, first to any of your unpaid obligations, then to current rent. We may do so regardless of notations on checks or money orders and regardless of when the obligations arose.

4.3. Utilities and Services. We'll pay for the following if checked:

☒ gas	☒ water	❑ wastewater
❑ electricity	☒ trash/recycling	❑ cable/satellite
☒ Internet	❑ stormwater/drainage	❑ government fees

❑ other _____

_____.

Your per-person share of any submetered or allocated utilities or services for the apartment will be included as an itemized charge on a billing statement to you. "Per person" is determined by the number of residents authorized to be living in the apartment at the time of the utility billing to you by us or our agent. You'll pay for all other utilities and services, related deposits, and any charges or fees on such utilities and services during your lease term.

SAMPLE

4.4. Late Charges. If you don't pay rent in full by 11:59 p.m. on the 3rd day of the month, you must pay us the following late charge immediately and without demand in addition to the unpaid rent: ❑ _____ % of your installment amount as stated in this Lease or ☒ $ 50.00.

You'll also pay a charge of $ 25.00 for each returned check or rejected electronic payment, (not to exceed that allowed by West Virginia law), plus a late charge.

4.5. Ad Valorem Taxes/Fees and Charges - Additional Rent. If, during the term of this Lease Contract, any locality, city, state, or Federal Government imposes upon us, any fee (including, but not limited to, any fire service fee or ambulance service fee), charge, or tax, which is related to or charged by the number of occupants, or by the apartment itself, such that we are charged a fee, charge, or tax, based upon your use or occupancy of the apartment, we may add this charge as Additional Rent, during the term of the Lease Contract, with thirty (30) days advance written notice to you. After this written notice (the amount or approximate amount of the charge, will be included), you agree to pay, as Additional Rent, the amount of the charge, tax or fee imposed upon us, as a result of your occupancy. As examples, these charges can include: any fire service fee or ambulance service fee, charges we receive for any zoning violation, sound, noise or litter charge; any charge under any nuisance or chronic nuisance type statute, 911 or other emergency services, per person, or per apartment charge or tax and any utility bill unpaid by you, which is then assessed to us for payment.

4.6. Lease Changes. No rent increases or Lease changes are allowed during the lease term, except for those allowed by special provisions, by a written addendum or amendment signed by you and us, or by reasonable changes of apartment rules allowed under the provisions herein.

5. SECURITY DEPOSIT. Your total security deposit is $ 0.00, due on or before the date this Lease Contract is signed. Any animal deposit will be stated in an animal addendum.

5.1. Refunds and Security Deposit Deductions. ***In accordance with our policies and as allowed by law, we may deduct from your security deposit the amount of damages beyond normal wear and tear.*** We'll mail you, to the forwarding address you provide, your security deposit refund (less lawful deductions) and an itemized accounting of any deductions within sixty (60) days of the termination of the tenancy or within forty-five (45) days of the occupation of the Premises by a subsequent resident, whichever time period is shorter. In the event that any damages to the Premises exceed the amount of the security deposit and require the services of a third-party contractor to repair the damages, we will give you notice of this fact within the applicable time period set forth above and we shall then have an additional fifteen (15) days to provide you with an itemization of the damages and the cost of repair. If you fail to provide us with your forwarding address in writing, as required above, we will process the unclaimed security deposit in accordance with state law to your last known address which may be the address of the Premises. In the event any security deposit refund is returned to us as undeliverable, under state law we are required to only hold the deposit refund for you for a period of six (6) months and, during that time, you or your authorized agent or attorney may obtain the deposit from us during our normal business hours within seventy-two (72) hours of our receipt of a written request for the deposit refund. Subject to Section 37-6A-2 of the West Virginia Code, you'll be liable for the following charges, if applicable: unpaid rent; unpaid utilities; unreimbursed service charges; repairs or damages caused by negligence, carelessness, accident, or abuse, including stickers, scratches, tears, burns, stains, or unapproved holes; replacement cost of our property that was in or attached to the apartment and is missing; replacing dead or missing smoke-detector batteries at any time; utilities for repairs or cleaning; trips to let in company representatives to remove your telephone, Internet, television services or rental items (if you so request or have moved out); trips to open the apartment when you or any guest or occupant is missing a key; unreturned keys; missing or burned-out light bulbs; removing or rekeying unauthorized access control devices or alarm systems; agreed reletting charges; packing, removing, or storing property removed or stored under Paragraph 28 (Surrender and Abandonment); removing illegally parked vehicles; special trips for trash removal caused by parked vehicles blocking dumpsters; false security alarm charges unless due to our negligence; animal-related charges under Paragraph 20 (Animals); government fees or fines against us for violation (by you, your occupant(s), or guest(s)) of local ordinances relating to smoke detectors, false alarms, recycling, or other matters; late-payment and returned-check charges; a charge (not to exceed $100) for our time and inconvenience in any valid eviction proceeding against you, plus attorney's fees, court costs, and filing fees actually paid; and other sums due under this Lease Contract. You'll be liable to us for (A) charges for replacing all keys and access devices if you fail to return them on or before your actual move-out date; (B) accelerated rent if you have violated Paragraph 25 (Default by Resident); ***and*** (C) a reletting fee if you have violated Paragraph 9 (Early Move-Out; Reletting Charge).

6. GUESTS. "Guests" include anyone entering the apartment for any reason related to your occupancy. You are responsible for the conduct of your guests, invitees, family members, and any other person whom you allow to enter the property or apartment, as if such conduct were your own. Unless otherwise stated in this Lease or in our policies, no more than 10 people may be present in the apartment at one time.

Other than residents and authorized occupants, no one else may occupy the apartment. Guests are not permitted to stay in the apartment for more than 3 consecutive days without our prior written consent. *If the previous blank isn't filled in, two (2) consecutive days will be the limit.*

6.1. Exclusion of Persons. We may exclude from your apartment and the apartment community guests or others who, in our judgment, have been violating the law, violating this Lease Contract or any apartment rules, or disturbing other residents, neighbors, visitors, or owner representatives. We may also exclude from any outside area or common area a person who refuses to show photo identification or refuses to identify himself or herself as a resident, occupant, or guest of a specific resident in the community.

7. CARE OF APARTMENT/COMMON AREAS AND DAMAGES. You must promptly reimburse us for loss, damage, government fines, or cost of repairs or service in the apartment community due to a violation of the Lease Contract or rules, improper use, negligence, or intentional conduct by you or your invitees, guests or occupants; or any other cause not due to our negligence or fault as allowed by law except for damages by acts of God to the extent they couldn't be mitigated by your action or inaction.

Unless the damage or wastewater stoppage is due to our negligence, we're not liable for—and you must pay for—repairs, replacement costs, and damage to the following that result from your or your invitees, guests, or occupants' negligence or intentional acts (A) damage to doors, windows, or screens; (B) damage from windows or doors left open; ***and*** (C) damage from wastewater stoppages caused by improper objects in lines exclusively serving your apartment.

Each resident is jointly and severally liable for all lease obligations relating to any shared areas and utilities (if applicable). All residents will be jointly responsible for damage to the apartment that we do not determine (in our sole discretion) was caused by a specific resident, and other amounts due under the Lease. In addition to other obligations outlined in this Lease, you are liable for your per-person share of animal violation charges, missing batteries from smoke or other detectors, government fines, or damages to the apartment if we cannot, in our reasonable judgment, ascertain the identity of the person who caused the damages or the charge or fee to be incurred. "Per person" is determined by the number of persons, including you and other residents, authorized to live in the apartment at the time of the damage, charge, fine or violation.

8. INSURANCE. ***We do not maintain insurance to cover your personal property or personal injury.***

8.1. Renter's Insurance Requirement

You are:

❑ required to buy and maintain renter's insurance; ***or***

☒ not required to buy renter's insurance.

8.2. Personal Liability Insurance Requirement

You are:

☒ required to purchase and maintain personal liability insurance; ***or***

❑ not required to buy liability insurance.

SAMPLE

If neither option is checked, insurance is not required but is still strongly recommended. Even if not required, we urge you to get your own insurance for losses due to theft, fire, water, pipe leaks, and similar occurrences. Renter's insurance doesn't cover losses due to a flood. We urge all residents to obtain flood insurance—particularly those residents in coastal areas, areas near rivers, and areas prone to flooding. A flood insurance resource which may be available includes the National Flood Insurance Program managed by the Federal Emergency Management Agency (FEMA).

9. **EARLY MOVE-OUT; RELETTING CHARGE.** You'll be liable to us for a reletting charge of $ _____ (not to exceed 100% of the highest of your installment amount during the Lease Contract term) if you (A) fail to give written move-out notice as required; or (B) move out without paying rent in full for the entire Lease Contract term or renewal period; or (C) move out at our demand because of your default; ***or*** (D) are judicially evicted.

   The reletting charge is not a cancellation fee nor a buyout fee and does not release you from your obligations under this Lease. It is a liquidated amount covering only part of our damages; that is, our time, effort, and expense in finding and processing a replacement. These damages are uncertain and difficult to ascertain—particularly those relating to inconvenience, paperwork, advertising, showing apartments, utilities for showing, checking prospects, office overhead, marketing costs, and locator-service fees. You agree that the reletting charge is a reasonable estimate of such damages and that the charge is due whether or not our reletting attempts succeed. If no amount is stipulated, you must pay our actual reletting costs so far as they can be determined. The reletting charge does not release you from continued liability for: future or past-due rent; charges for cleaning, repairing, repainting, or unreturned keys; or other sums due.

10. **SECURITY AND SAFETY DEVICES.**

    10.1. **Smoke and Carbon Monoxide Detectors.** We'll furnish smoke detectors and carbon monoxide detectors only if required by statute. We may install additional detectors not so required. **We'll test them and provide working batteries when you first take possession. Upon request, we'll provide, as required by law, a smoke alarm or carbon monoxide detector capable of alerting a person with a hearing-impairment disability.**

    You must test the smoke detectors and the carbon monoxide detectors on a regular basis, and you must pay for and replace batteries as needed, unless the law provides otherwise. We may replace dead or missing batteries at your expense, without prior notice to you. **If you damage or disable the smoke detector or carbon monoxide detector or remove a battery without replacing it with a working battery, you may be liable to us for $100 plus one (1) month's rent, actual damages, and attorney's fees.**

    10.2. **Duty to Report.** You must immediately report smoke detector and carbon monoxide detector malfunctions to us. Neither you nor others may disable neither the smoke detectors nor the carbon monoxide detectors. You will be liable to us and others for any loss, damage, or fines from fire, smoke, or water.

11. **DELAY OF OCCUPANCY.** We are not responsible for any delay of your occupancy caused by construction, repairs, cleaning, or a previous resident's holding over. The Lease Contract will remain in force subject to (1) abatement of rent on a daily basis during delay; ***and*** (2) your right to terminate as set forth below.

    After termination, you are entitled only to a refund of the deposit(s) you paid and any rent you paid. Rent abatement or Lease Contract termination does not apply if delay is for cleaning or repairs that don't prevent you from occupying the apartment.

    If there is a delay and we haven't given notice of delay as set forth immediately below, you may terminate up to the date when the apartment is ready for occupancy, but not later. **Termination notice must be in writing.**

    (a) If we give written notice to you when or after the Lease begins—and the notice states that occupancy has been delayed because of construction or a previous resident's holding over, and that the apartment will be ready on a specific date—you may terminate the Lease Contract within three (3) days of your receiving the notice, but not later.

    (b) If we give you written notice before the date of the Lease begins and the notice states that a construction delay is expected and that the apartment will be ready for you to occupy on a specific date, you may terminate the Lease Contract within seven (7) days after you receive written notice, but not later.

    The readiness date is considered the new initial term as set forth in Paragraph 3 (Term) for all purposes. This new date may not be moved to an earlier date unless we and you agree in writing.

Resident Life

12. **COMMUNITY POLICIES OR RULES.** You and all guests and occupants must comply with any written apartment rules and community policies, including instructions for care of our property. Our rules are considered part of this Lease Contract. We may make reasonable changes to written rules, effective immediately, if they are distributed and applicable to all apartments in the apartment community and do not change dollar amounts on page 1 of this Lease Contract.

    12.1. **Photo/Video Release.** When signing this Lease, you grant us permission to use any photograph or video taken of you while you are using property common areas or participating in any event sponsored by us.

    12.2. **Limitations on Conduct.** Your apartment and other areas reserved for your private use must be kept clean and free of trash, garbage, and other debris. Trash must be disposed of at least weekly in appropriate receptacles in accordance with local ordinances. Passageways may be used only for entry or exit. You agree to keep all passageways and common areas free of obstructions such as trash, storage items, and all forms of personal property. No person shall ride or allow bikes, skateboards, or other similar objects in the passageways. You will use balconies with care and will not overload them. Any swimming pools, saunas, spas, tanning beds, exercise rooms, storerooms, laundry rooms, and similar areas must be used with care and in accordance with apartment rules and posted signs. Glass containers are prohibited in or near pools and all other common areas. Within the apartment community you, your occupant(s), and your guest(s) must not use candles or use kerosene lamps or heaters without our prior written approval; cook on balconies or outside. You, your occupant(s), and your guest(s) must not solicit business or contributions. Conducting any kind of business (including child-care services) in your apartment or in the apartment community is prohibited—except that any lawful business conducted "at home" by computer, mail, or telephone is permissible if customers, clients, patients, or other business associates do not come to your apartment for business purposes. We may regulate:

    (a) the use of patios, balconies, and porches;

    (b) the conduct of furniture movers and delivery persons; ***and***

    (c) recreational activities in common areas.

    12.3. **Notice of Convictions and Registration.** You agree to notify us if you or any occupants are convicted of (A) any felony, ***or*** (B) any misdemeanor involving a controlled substance, violence to another person or destruction of property. You also agree to notify us if you or any occupant registers as a sex offender in any state. Informing us of criminal convictions or sex offender registry does not waive our right to evict you.

    12.4. **Attendance and Enrollment.** We may, at our option, require information about your attendance and enrollment. If required by us, you must notify us prior to any extended absence from your apartment that is for more than fourteen (14) days and not during a regular school break. If you are suspended or expelled by an educational institution, we have the right, but not the obligation, to terminate your Lease. Within ten (10) days of your suspension or expulsion, you must give us written notice if our policies require this information. At our request, the educational institution may give us information about your enrollment status.

13. **PROHIBITED CONDUCT.** You, your occupant(s) or guest(s), or the guest(s) of any occupant(s), may not engage in the following activities:

    (a) criminal conduct; manufacturing, delivering, possessing with intent to deliver, or otherwise possessing a controlled substance or drug paraphernalia; engaging in or threatening

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violence; possessing a weapon prohibited by state law; discharging a firearm in the apartment community; displaying or possessing a gun, knife, or other weapon in the common area in a way that may alarm others;
(b) behaving in a loud or obnoxious manner;
(c) disturbing or threatening the rights, comfort, health, safety, or convenience of others (including our agents and employees) in or near the apartment community;
(d) disrupting our business operations;
(e) storing anything in closets having gas appliances;
(f) tampering with utilities or telecommunications;
(g) bringing hazardous materials into the apartment community;
(h) using windows for entry or exit; ***or***
(i) heating the apartment with a gas-operated cooking stove or oven.

14. PARKING. We may regulate the parking place of all cars, trucks, motorcycles, bicycles, scooters, boats, trailers, and recreational vehicles. Motorcycles, motorized bikes, or scooters may not be parked inside an apartment or on sidewalks, under stairwells, or in handicapped parking areas. We may have unauthorized or illegally parked vehicles towed under an appropriate statute. A vehicle is unauthorized or illegally parked in the apartment community if it:
(a) has a flat tire or other condition rendering it inoperable;
(b) is on jacks, blocks or has wheel(s) missing;
(c) has no current license plate or no current registration and/or inspection sticker;
(d) takes up more than one parking space;
(e) belongs to a resident or occupant who has surrendered or abandoned the apartment;
(f) is parked in a marked handicap space without the legally required handicap insignia;
(g) is parked in space marked for manager, staff, or guest at the office;
(h) blocks another vehicle from exiting;
(i) is parked in a fire lane or designated "no parking" area;
(j) is parked in a space marked for other resident(s) or apartment(s);
(k) is parked on the grass, sidewalk, or patio;
(l) blocks garbage trucks from access to a dumpster; ***or***
(m) belongs to a resident and is parked in a visitor or retail parking space.

15. RELEASE OF RESIDENT. Unless allowed by this Lease Contract, federal or state law, you won't be released from this Lease Contract for any reason.

16. MILITARY PERSONNEL CLAUSE. All parties to this Lease Contract agree to comply with any federal law, including, but not limited to the Service Member's Civil Relief Act, or any applicable state law(s), if you are seeking to terminate this Lease Contract and/or subsequent renewals and/or Lease Contract extensions under the rights granted by such laws.

17. RESIDENT SAFETY AND LOSS. ***We are not liable to you, other residents in your apartment or your guests for any damage, injury or loss to person or property caused by persons, including but not limited to theft, burglary, assault, vandalism or other crimes.*** We're not liable to you, other residents, guests, or occupants for personal injury or damage or loss of personal property from any cause, including but not limited to: fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, interruption of utilities or other occurrences unless such damage injury or loss is caused exclusively by our negligence, unless otherwise required by law. We have no duty to remove any ice, sleet, or snow but may remove any amount with or without notice. During freezing weather, you must ensure that the temperature in the apartment is sufficient to make sure that the pipes do not freeze (the appropriate temperature will depend upon weather conditions and the size and layout of your apartment). If the pipes freeze or any other damage is caused by your failure to properly maintain the heat in your apartment, you'll be liable for damage to our and other's property. If you ask our representatives to perform services not contemplated in this Lease Contract, you will indemnify us and hold us harmless from all liability for these services.

You acknowledge that we are not equipped or trained to provide personal security services to you, other residents or your guests. You recognize that we are not required to provide any private security services and that no security devices or measures on the property are fail-safe. You further acknowledge that even if an alarm is provided it is a mechanical device that requires proper operation by you regarding coding and maintaining the alarm. Any charges resulting from the use of an intrusion alarm will be charged to you, including but not limited to any false alarms with police/fire/ambulance response or other required city charges.

We do not warrant security of any kind. You agree that you will not rely upon any security measures taken by us for personal security, and that you will call local law enforcement authorities if any security needs arise, along with 911 or any other applicable emergency number if an emergency occurs.

18. CONDITION OF THE PREMISES AND ALTERATIONS.

18.1. As-Is. ***We disclaim all implied warranties.*** You accept the apartment, fixtures, and furniture as is, except for conditions materially affecting the health or safety of ordinary persons. We disclaim all implied warranties, except the implied warranty of habitability as expressed in *W. Va. Code § 37-6-30*. You'll be given an Inventory and Condition form on or before move-in. Within 48 hours after move in, you must sign and note on the form all defects or damage and return it to our representative. Otherwise, everything will be considered to be in a clean, safe, and good working condition.

18.2. Standards and Improvements. You must use customary diligence in maintaining the apartment and not damaging or littering the common areas. Unless authorized by statute or by us in writing, you must not perform any repairs, painting, wallpapering, carpeting, electrical changes, or otherwise alter our property. No holes or stickers are allowed inside or outside the apartment. But we'll permit a reasonable number of small nail holes for hanging pictures on sheetrock walls and in grooves of wood-paneled walls, unless our rules state otherwise. No water furniture, washing machines, additional phone or TV-cable outlets, alarm systems, or lock changes, additions, or rekeying is permitted unless statutorily allowed or we've consented in writing. You may install a satellite dish or antenna provided you sign our satellite dish or antenna lease addendum which complies with reasonable restrictions allowed by federal law. You agree not to alter, damage, or remove our property, including alarm systems, smoke detectors, furniture, telephone and cable TV wiring, screens, locks, and access control devices. When you move in, we'll supply light bulbs for fixtures we furnish, including exterior fixtures operated from inside the apartment; after that, you'll replace them at your expense with bulbs of the same type and wattage. Your improvements to the apartment (whether or not we consent) become ours unless we agree otherwise in writing.

19. REQUESTS, REPAIRS, AND MALFUNCTIONS.

19.1. Written Requests Required. IF YOU OR ANY OCCUPANT NEEDS TO SEND A NOTICE OR REQUEST—FOR EXAMPLE, FOR REPAIRS, INSTALLATIONS, SERVICES, OR SECURITY-RELATED MATTERS—IT MUST BE SUBMITTED THROUGH EITHER THE ONLINE RESIDENT PORTAL, OR SIGNED AND IN WRITING AND DELIVERED TO OUR DESIGNATED REPRESENTATIVE (except for fair-housing accommodation or modification requests or situations involving imminent danger or threats to health or safety such as fire, smoke, gas, explosion, overflowing sewage, uncontrollable running water, electrical shorts, or crime in progress). Our written notes on your oral request do not constitute a written request from you. A request for maintenance or repair by anyone residing in your bedroom or apartment constitutes a request from all residents.

19.2. Notifications and Requirements. You must promptly notify us in writing of: water leaks or excessive moisture; mold; electrical problems; malfunctioning lights; broken or missing locks or latches; and other conditions that pose a hazard to property, health, or safety. Unless we instruct otherwise, you are required to keep the apartment cooled or heated according to our policies.

19.3. Utilities. We may change or install utility lines or equipment serving the apartment if the work is done reasonably without substantially increasing your utility costs. We may turn off equipment and interrupt utilities as needed to avoid property damage or to perform work. If utilities malfunction or are damaged by fire, water, or similar cause, you must notify our representative immediately.

19.4. Casualty Loss and Equipment Repair. We'll act with customary diligence to make repairs and reconnections, taking into consideration when casualty insurance proceeds are received. Rent will not abate in whole or in part. Air

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conditioning problems are normally not emergencies. If air conditioning or other equipment malfunctions, you must notify our representative as soon as possible on a business day.

19.5. Our Right to Terminate for Casualty Loss/Property Closure. If we believe that fire or catastrophic damage is substantial, or that performance of needed repairs poses a danger to you, we may terminate your tenancy within a reasonable time by giving you written notice. We also have the right to terminate this Lease during the lease term by giving you at least thirty (30) days' written notice of termination if we are demolishing your apartment or closing it and it will no longer be used for residential purposes for at least six (6) months, or if the property is subject to eminent domain. If your tenancy is so terminated, we'll refund prorated rent and all deposits, less lawful deductions. We may also remove personal property if it causes a health or safety hazard.

20. ANIMALS.

20.1. No Animals Without Consent. ***Unless otherwise provided under federal, state, or local law, no animals (including mammals, reptiles, birds, fish, rodents, and insects) are allowed, even temporarily, anywhere in the apartment or apartment Community unless we've so authorized in writing.*** If we allow an animal as a pet, you must execute a separate animal addendum which may require additional deposits, rents, fees or other charges. An animal deposit is considered a general security deposit. The animal addendum includes information governing animals, including assistance or service animals. We will authorize an assistance animal for a disabled person without requiring an animal deposit. When allowed by applicable laws, before we authorize an assistance animal, if the disability is not readily apparent, we may require a written statement from a qualified professional verifying the disability-related need for the assistance animal. If we authorize an assistance animal, we may require you to execute a separate animal and/or assistance animal addendum. Animal deposits, additional rents, fees or other charges will not be required for an assistance animal needed due to disability, including an emotional support or service animal, as authorized under federal, state, or local law. You represent that any requests you made are true, accurate and made in good faith. You must not feed stray or wild animals.

20.2. Removal of Unauthorized Animal. We may remove an illegal or unauthorized animal by (1) leaving, in a conspicuous place in the apartment, a written notice of our intent to remove the animal within twenty-four (24) hours; ***and*** (2) following the procedures of Paragraph 21 (When We May Enter). We won't be liable for loss, harm, sickness, or death of the animal unless due to our negligence. We'll return the animal to you upon request if it has not already been turned over to a humane society or local authority. You must pay for the animal's reasonable care and kenneling charges. We have no lien on the animal for any purpose.

20.3. Violations of Animal Policies and Charges. If you or any guest or occupant violates animal restrictions (with or without your knowledge), you'll be subject to charges, damages, eviction, and other remedies provided in this Lease, including an initial charge of $ 100.00 per animal (not to exceed $100 per animal) and a daily charge of $ 10.00 per animal (not to exceed $10 per day per animal) from the date the animal was brought into your apartment until it is removed. If an animal has been in the apartment at any time during your term of occupancy (with or without our consent), we'll charge you for defleaing, deodorizing, and shampooing. Initial and daily animal-violation charges are liquidated damages for our time, inconvenience, and overhead (except for attorney's fees and litigation costs) in enforcing animal restrictions and rules.

21. WHEN WE MAY ENTER. If you or any co-resident, guest or occupant is present, then repairers, servicers, contractors, our representatives, or other persons listed in (b) below may peacefully enter the bedroom or apartment at reasonable times for the purposes listed in (b) below. If nobody is in the bedroom or apartment, then such persons may enter peacefully and at reasonable times by duplicate or master key (or by breaking a window or other means in an emergency situation) if:

(a) written notice of the entry is left in a conspicuous place in the apartment immediately after the entry; ***and***

(b) entry is for: responding to your or any co-resident's request; making repairs or replacements; estimating repair or refurbishing costs; performing pest control; doing preventive maintenance; checking for water leaks; changing filters; testing or replacing detection device batteries; retrieving unreturned tools, equipment, or appliances; preventing waste of utilities; exercising our contractual lien; leaving notices; delivering, installing, reconnecting, or replacing appliances, furniture, equipment, or access control devices; removing or rekeying unauthorized access control devices; removing unauthorized window coverings; stopping excessive noise; removing health or safety hazards (including hazardous materials), or items prohibited under our rules; removing perishable foodstuffs if your electricity is disconnected; removing unauthorized animals; disconnecting utilities involving bona fide repairs, emergencies or construction; retrieving property owned or leased by former residents; inspecting when immediate danger to person or property is reasonably suspected; allowing entry by a law officer with a search or arrest warrant, or in hot pursuit; showing apartment to prospective residents (after move-out or vacate notice has been given); or showing apartment to government representatives for the limited purpose of determining housing and fire ordinance compliance, and to lenders, appraisers, contractors, prospective buyers, or insurance agents.

22. NOTICES. Notices and requests from you or any other resident or occupant of the apartment constitute notice from all residents. Unless this Lease or the law requires otherwise, any notice required to be provided, sent or delivered in writing by us may be given electronically, subject to our rules. Your notice of tenancy termination or intent to move out must be signed by you. A notice from us to you to pay sums owed only by you, or regarding sale of property that belongs only to you or that was in your possession and care, will be addressed to you only. You represent that you have provided your current e-mail address to us, and that you will notify us in the event your e-mail address changes.

23. SUBLETTING, TRANSFERS, RELOCATION AND REPLACEMENTS. ***Prior written consent required. Replacing a resident, subletting, assignment, or granting a right or license to occupy is allowed only when we expressly consent in writing.***

23.1. Transfers. You must get our prior written approval for any transfer. If transfer is approved, you must:

(a) be in compliance with all terms of this Lease;
(b) execute a new lease or other agreement for the space to which you are transferring;
(c) complete all required forms;
(d) pay a new security deposit in advance if required; ***and***
(e) pay transfer fee of $ 350.00 in advance if you are moving from one apartment to another or $ 350.00 in advance if you are moving from one exclusive space to another in the same apartment.

Under no circumstances will we be responsible for paying your moving costs.

23.2. Relocation. We reserve the right at any time, upon five (5) days prior written notice to you and without your having to pay any transfer fee, to relocate you to another bedroom in the apartment or to another apartment within the apartment community. We will pay for rekeying if we require you to relocate.

23.3. Replacement. If departing or remaining residents find a replacement resident acceptable to us before moving out and we expressly consent, in writing, to the replacement, subletting, assignment, or granting a right or any license to occupy, then:

(a) a reletting charge *will not* be due;
(b) an administrative (paperwork) and/or transfer fee *will* be due, and a rekeying fee *will* be due if rekeying is requested or required; ***and***
(c) you *will* remain liable for all Lease Contract obligations for the rest of the original lease contract term.

If we approve a replacement resident, then, at our option, that resident must sign a new Lease. Deposits will not transfer, unless we agree otherwise in writing. The departing resident will no longer have a right to occupancy or a security deposit refund, but will remain liable for the remainder of the original lease contract term unless we agree otherwise in writing—even if a new lease contract is signed.

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23.4. Rental Prohibited. You agree that you won't rent or offer to rent your bedroom or all or any part of your apartment to anyone else. You agree that you won't accept anything of value from anyone else for the use of any part of your apartment. You agree not to list any part of your apartment on any lodging rental website or with any service that advertises apartments for rent.

Owner's Rights and Remedies

24. OUR RESPONSIBILITIES. We'll act with customary diligence to:

(a) maintain the apartment and surrounding premises in a fit and habitable condition, subject to Paragraph 18 (Condition of the Premises and Alterations);

(b) maintain the premises in a condition that meets requirements of applicable health, safety, fire and housing codes, unless the failure to meet those requirements is your fault or the fault of a member of your family or other person on the premises with your consent;

(c) keep clean, safe and in repair all common areas of the premises remaining under our control or that are maintained for the use and benefit of all residents;

(d) make all repairs necessary to keep the premises in a fit and habitable condition, unless those repairs were necessitated primarily by your lack of reasonable care or by a lack of reasonable care by a member of your family or other person on the premises with your consent;

(e) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by us by a written agreement or by law;

(f) provide and maintain appropriate conveniences for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the apartment; ***and***

(g) with respect to apartments supplied by direct public utility connections, supply running water and reasonable amounts of hot water at all times, and reasonable heat between the first (1st) day of October and the last day of April, except where the apartment is so constructed that running water, heat or hot water is generated by an installation within your exclusive control.

Under West Virginia law, we are not required to make repairs if you are in arrears in payment of rent. Therefore, at the time you make any written request for repairs, your rent must be current. You may not make any repairs yourself and deduct the cost from the rent.

25. DEFAULT BY RESIDENT. You'll be in default if you or any guest or occupant violates any terms of this Lease Contract including but not limited to the following violations (A) you don't pay rent or other amounts that you owe when due; (B) you or any guest or occupant violates the apartment rules, or fire, safety, health, or criminal laws, regardless of whether or where arrest or conviction occurs; (C) you abandon the bedroom or apartment; (D) you give incorrect or false answers in a rental application; (E) you or any occupant is arrested, convicted, or given deferred adjudication for (1) a felony offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia as defined in the West Virginia Uniform Controlled Substances Act, or (2) any sex-related crime, including a misdemeanor; (F) any illegal drugs or paraphernalia are found in your apartment; (G) you or any occupant, in bad faith, makes an invalid complaint to an official or employee of a utility company or the government; ***or*** (H) you allow a co-resident who has been evicted to stay in your bedroom or the apartment.

The resident defaults contained in the Lease will be limited to conduct by you or any of your invitees, guests or occupants, or to conduct in which you and any invitee, guest, occupant or resident participated. The remedies for a default committed solely by a resident in the apartment will be limited to those that affect that resident only.

25.1. Lease Renewal When A Breach or Default Has Occurred. To the extent permitted by law, in the event that you enter into a subsequent lease with us prior to the expiration of this Lease and you breach or otherwise commit a default under this Lease, we may, at our sole and absolute discretion, terminate the subsequent lease, even if the subsequent lease term has yet to commence. We may terminate said subsequent lease by sending you written notice of our desire to terminate said subsequent lease.

25.2. Eviction. If you default by not paying your rent or by breaching any other lease provision, we may evict you according to state law. In the alternative, or in addition, if you breach any lease provision other than by not paying your rent, we may end your right of occupancy by giving you written notice to vacate as provided in Paragraph 3 (Term) of this Lease Contract. Notice may be by:

(a) personal delivery to you or to your lawfully authorized agent; ***or***

(b) if, service by personal delivery cannot be made with reasonable diligence, then service will be made by leaving a copy of the summons and complaint at your usual place of abode with your spouse or other member of your family over sixteen who is willing to accept service. If service is made in this manner we will also mail you a copy (first class mail, postage prepaid) of the summons and complaint to the person to be served at the place where a copy of the summons and complaint were left. **After giving notice to vacate or filing an eviction suit, we may still accept rent or other sums due;** the filing or acceptance doesn't waive or diminish our right of eviction, or any other contractual or statutory right. Accepting money at any time doesn't waive our right to damages; past or future rent or other sums; or to continue with eviction proceedings. If you are evicted, you must leave the apartment and cannot live in another bedroom or anywhere else in the apartment. ***In an eviction, rent is owed for the full rental period and will not be prorated.***

25.3. Acceleration. All monthly rent for the rest of the lease contract term or renewal period will be accelerated automatically without notice or demand (before or after acceleration) and will be immediately due and delinquent if, without our written consent (A) you move out, remove property in preparing to move out, or give oral or written notice (by you or any occupant) of intent to move out before the lease contract term or renewal period ends; ***and*** (B) you've not paid all rent for the entire lease contract term or renewal period.

Such conduct is considered a default for which we need not give you notice. Remaining rent also will be accelerated if you're judicially evicted or move out when we demand because you've defaulted. Acceleration is subject to our mitigation obligations below.

Disclaimer: If there is a breach of this Lease Contract and the law does not allow us to evict only the breaching resident, all co-residents may be evicted if only one resident breaches this Lease Contract.

25.4. Other Remedies. If your rent is delinquent and we give you five (5) days' prior written notice, we may terminate electricity that we've furnished at our expense, unless governmental regulations on submetering or utility proration provide otherwise. We may report unpaid amounts to credit agencies. If you default and move out early, you will pay us any amounts stated to be rental discounts in Paragraph 9 (Early Move-Out; Reletting Charge), in addition to other sums due. Upon your default, we have all other legal remedies, including tenancy termination. Unless a party is seeking exemplary, punitive, sentimental or personal-injury damages, the prevailing party may recover from the non-prevailing party attorney's fees and all other litigation costs. Late charges are liquidated damages for our time, inconvenience, and overhead in collecting late rent (but are not for attorney's fees and litigation costs). All unpaid amounts bear 18% interest per year from due date, compounded annually. You must pay all collection-agency fees if you fail to pay all sums due within ten (10) days after we mail you a letter demanding payment and stating that collection agency fees will be added if you don't pay all sums by that deadline.

25.5. Mitigation of Damages. If you move out early, you'll be subject to Paragraph 9 (Early Move-Out; Reletting Charge) and all other remedies. We'll exercise customary diligence to relet and mitigate damages. We'll credit all subsequent rent that we actually receive from subsequent residents against your liability, less the expense incurred by us in re-letting, for past-due and future rent and other sums due.

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25.6. Default by Other Residents. If there is a default by another resident, it may not be possible to prevent their occupancy of the apartment during legal proceedings.

26. OTHER IMPORTANT PROVISIONS.

26.1. Representatives' Authority; Waivers; Notice.
Our representatives (including management personnel, employees, and agents) have no authority to waive, amend, or terminate this Lease Contract or any part of it, unless in writing, and no authority to make promises, representations, or agreements that impose security duties or other obligations on us or our representatives unless in writing.

Any dimensions and sizes provided to you relating to the apartment are only approximations or estimates; actual dimensions and sizes may vary. **No action or omission of our representative will be considered a waiver of any subsequent violation, default, or time or place of performance. Our not enforcing or belatedly enforcing written-notice requirements, rental due dates, acceleration, liens, or other rights isn't a waiver under any circumstances.**

Except when notice or demand is required by statute, you waive any notice and demand for performance from us if you default. We may require a guarantor if you do not qualify on your own. If anyone else has guaranteed performance of this Lease, a separate Lease Guaranty for each guarantor must be executed and submitted per our policies, we may, at our option, terminate this Lease. Written notice to or from our managers constitutes notice to or from us. Any person giving a notice under this Lease Contract should retain a copy of the memo, letter or fax that was given (and any fax-transmittal verification). Fax or electronic signatures are binding. All notices must be signed.

26.2. Entire Agreement. Neither we nor any of our representatives have made any oral promises, representations, or agreements.

26.3. WAIVER OF JURY TRIAL. To minimize legal expenses and, to the extent allowed by law, you and we agree that a trial of any lawsuit based on statute, common law, and/or related to this Lease Contract shall be to a judge and not a jury.

26.4. Miscellaneous.
(a) Exercising one remedy won't constitute an election or waiver of other remedies.
(b) Insurance subrogation is waived by all parties.
(c) All remedies are cumulative.
(d) No employee, agent, or management company is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our behalf.
(e) This Lease Contract binds subsequent owners.
(f) This Lease remains in effect if any provision or clause is invalid or if initials are omitted on any page.
(g) All provisions regarding our non-liability and non-duty apply to our employees, agents, and management companies.
(h) This Lease Contract is subordinate or superior to existing and future recorded mortgages, or deeds of trust, at lender's option.
(i) All lease contract obligations must be performed in the county where the apartment is located.
(j) Utilities may be used only for normal household purposes and must not be wasted. If your electricity is ever interrupted, you must use only battery-operated lighting.
(k) Cable channels that are provided may be changed during the Lease Contract term if the change applies to all residents and complies with the provisions of W. Va. Code § 24D-2-1, et seq.
(l) The term "including" in this Lease should be interpreted to mean "including but not limited to."
(m) Nothing in this Lease constitutes a waiver of our remedies for a breach under your prior lease that occurred before the Lease term in Paragraph 3 (Term) begins.

26.5. Force Majeure. If we are prevented from completing performances of any obligations hereunder by an act of God, strikes, epidemics, war, acts of terrorism, riots, flood, fire, hurricane, tornado, sabotage, or other occurrence which is beyond our control, then we shall be excused from any further performance of obligations and undertakings hereunder, to the fullest extent allowed under applicable law. Your exposure to or contracting of a virus does not excuse you from fulfilling your lease obligations.

Furthermore, if such an event damages the property to materially affect its habitability by some or all residents, we reserve the right to vacate any and all leases and you agree to excuse us from any further performance of obligations and undertakings hereunder, to the fullest extent allowed under applicable law.

End of the Lease

27. MOVE-OUT PROCEDURES. The move-out date can't be changed unless we and you both agree in writing. You won't move out before the lease contract term or renewal period ends unless all rent for the entire lease contract term or renewal period is paid in full. Early move-out may result in reletting charges and acceleration of future rent under Paragraphs 9 (Early Move-Out; Reletting Charge) and 25 (Default by Resident). You're prohibited from applying any security deposit to rent. You won't stay beyond the date you are supposed to move out. All residents, guests, and occupants must vacate or surrender the bedroom and apartment before the applicable notice period for security deposit refund begins. You must give us and the U.S. Postal Service, in writing, each resident's forwarding address.

27.1. Cleaning. You must thoroughly clean the apartment, including doors, windows, furniture, bathrooms, kitchen appliances, patios, balconies, garages, carports, and storage rooms. You must follow move-out cleaning instructions if they have been provided. If you don't clean adequately, you'll be liable for reasonable cleaning charges—including charges for cleaning carpets, draperies, furniture, walls, etc. that are soiled beyond normal wear (that is, wear or soiling that occurs without negligence, carelessness, accident, or abuse).

27.2. Move-Out Inspection. You should meet with our representative for a move-out inspection. Our representative has no authority to bind or limit us regarding deductions for repairs, damages, or charges. Any statements or estimates by us or our representative are subject to our correction, modification, or disapproval before final refunding or accounting.

28. SURRENDER AND ABANDONMENT. You have ***surrendered*** the bedroom and the apartment when (A) the move-out date has passed and no one is living in the bedroom in our reasonable judgment; ***or*** (B) all bedroom and apartment keys and access devices listed herein have been turned in where rent is paid—whichever date occurs first.

You have ***abandoned*** the bedroom and the apartment when all of the following have occurred (A) you appear to have moved out in our reasonable judgment; (B) clothes, furniture, and personal belongings have been substantially removed from the bedroom in our reasonable judgment; (C) you've been in default for non-payment of rent for one (1) month; ***and*** (D) you've not responded during the one (1) month period as specified in our notice as provided for herein stating that we consider the apartment abandoned. A bedroom or an apartment is also considered "abandoned" ten (10) days after the death of a sole resident.

28.1. The Ending of Your Rights. Surrender, abandonment, or judicial eviction ends your right of possession for all purposes and gives us the immediate right to: clean up, make repairs in, and relet the bedroom or apartment; determine any security deposit deductions; and remove property left in the apartment, subject to the notice provisions as set forth in Paragraph 22 (Notices) of this Lease Contract. Surrender, abandonment, and judicial eviction affect your rights to property left in the apartment, but do not affect our mitigation obligations.

28.2. Property Left In Apartment. All property left in the apartment after abandonment or surrender of the apartment may be disposed of in accordance with West Virginia law if we exercise our rights under this section. For this purpose, "apartment" excludes common areas but includes interior living areas and exterior patios, balconies, attached garages, and storerooms for your exclusive use.

SAMPLE

28.3. Removal After Abandonment or Surrender. If your rent is delinquent and you have surrendered or abandoned the apartment (see definitions in Paragraph 28 - Surrender and Abandonment), we will post a notice in writing on the front door of your apartment or in another conspicuous part of the exterior of the apartment, requiring you to pay rent within one (1) month. If the rent is not paid within that time, we shall be entitled to possession of the apartment and may enter the apartment and your right to lease the apartment shall end. Upon regaining possession of the apartment in this manner, we may take, dispose of, or otherwise remove, all personal property located thereon without incurring any liability to you or any other person. We may store your personal property, if we are obligated to do so by law. If we intend to dispose of your personal property, we will give you a written notice posted on the front door or in another conspicuous part of the exterior of the apartment, and sent by first-class mail with a certificate of mailing which provides a receipt of the date of mailing, in an envelope endorsed "Please Forward," addressed and mailed to you at the apartment, any post office box held by you and known to us, and to the most recent forwarding address you provided to us or which is known to us. This notice will advise you that we consider the leased property to be surrendered or abandoned, that any personal property left by you must be removed from the apartment or the place where we have it stored, by a date specified in the notice that is not less than thirty (30) days after the notice was mailed to you or not less than sixty (60) days after the notice was mailed to you if you have notified us that you are on active duty in the armed forces of the United States. If the personal property is not removed within the time provided in the notice, then you forfeit all ownership rights in the personal property and the personal property becomes our property and we may dispose of it as we shall see fit. If the personal property is, in our reasonable judgment, worth more than three hundred dollars and was not removed from the apartment or the place where we have stored it within the time period specified in the notice to you, we will store the personal property for up to thirty (30) additional days if you or any person holding a security interest in the personal property informs us of their intent to remove the property provided that you or the person holding such security interest pays to us the reasonable costs of storage and removal. If you do not claim the personal property by the end of such additional thirty (30) days, we may dispose of it as we shall see fit.

28.4. Removal After Eviction. If a court issues an order specifying the time by which you shall vacate the apartment, that order will provide that if you continue to wrongfully occupy the apartment beyond such time, the Sheriff shall forthwith remove you. When an order is issued granting us possession of the apartment under W.Va. Code § 55-3A-3 and you fail to remove all personal property by that date and time, we may dispose of your personal property without incurring any liability to you or any other person if you inform us in writing that the personal property is abandoned or if we, in our reasonable judgment, believe the property is garbage. We may remove and store your personal property after the date by which you are ordered to vacate the apartment. We may dispose of any stored personal property after thirty (30) days without incurring any liability to you or any other person if you have not paid the reasonable costs of storage and removal to us and you have not taken possession of the stored personal property, or the costs of storage equal, in our reasonable opinion, the value of the personal property being stored. We may leave the personal property in the apartment and may dispose of the personal property left there after thirty (30) days without incurring any liability or responsibility to you or any other person if you have not paid to us the reasonable costs incurred by us in leaving the personal property in the apartment and you have not taken possession of the personal property. If, in our reasonable judgment, the personal property is worth more than three hundred dollars and was not removed from the apartment or place of storage within thirty (30) days with the required fees paid, we will store the personal property for up to thirty (30) additional days if you or any person holding a security interest in the personal property informs us of your or their intent to remove the property provided that you or such person pays us the reasonable costs of storage and removal.

General Provisions and Signatures

29. DISCLOSURE RIGHTS. If someone requests information on you or your rental history for law enforcement, governmental, or business purposes, we may provide it.

30. ASSOCIATION MEMBERSHIP. We represent that either: (A) we or; (B) the management company that represents us, is at the time of signing this Lease Contract or a renewal of this Lease Contract, a member of both the National Apartment Association and any affiliated state and local apartment (multi-housing) associations for the area where the apartment is located.

31. CANCELLATION. If written cancellation is received within seventy-two (72) hours of the date you sign this Lease, the Lease will be voided with no penalties to you, unless we have received the first installment or you have been issued keys.

32. SEVERABILITY. If any provision of this Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Lease Contract while preserving the intent of the parties.

33. ORIGINALS AND ATTACHMENTS. This Lease Contract has been executed in multiple originals, with original or electronic signatures. We will provide you with a copy of the Lease Contract. Your copy of the Lease Contract may be in paper format, in an electronic format at your request, or sent via e-mail if we have communicated by e-mail about this Lease. Our rules and community policies, if any, will be attached to the Lease Contract and provided to you at signing. When an Inventory and Condition form is completed, you should retain a copy, and we should retain a copy. Any addenda or amendments you sign as a part of executing this Lease Contract are binding and hereby incorporated into and made part of the Lease Contract between you and us. **This Lease Contract is the entire agreement between you and us.** You acknowledge that you are NOT relying on any oral representations. A copy or scan of this Lease Contract and related addenda, amendments, and agreements may be used for any purpose and shall be treated as an original.

34. SPECIAL PROVISIONS. The following or attached special provisions and any addenda or written rules furnished to you at or before signing will become a part of this Lease and will supersede any conflicting provisions of this printed Lease form.

_____

_____

_____

_____

_____

Before submitting a rental application or signing this Lease, you should review the documents and consult an attorney. You are legally bound by this Lease when you sign it. A facsimile or an electronic signature on this Lease is as binding as an original signature.

The leasing process will be completed after we review, approve and return a countersigned Lease to you. You understand a contract has been formed even if the specific apartment or bedroom is to be assigned at a later date.

Additional provisions or changes may be made to the Lease if agreed to in writing by the parties. You are NOT relying on any oral representations.

You are entitled to receive a copy of this Lease after it is fully signed.

Keep it in a safe place.

Resident *(sign below)*

_____

Date Signed _____

Owner or Owner's Representative *(signing on behalf of owner)*

_____

Date Signed _____

SAMPLE

Address and phone number of Owner's Representative for notice purposes

5000 Domain Drive
Morgantown, WV 26501
(304)598-0700

Name and address of locator service *(if applicable)*

After-hours phone number (304) 598-0700
(Always call 911 for police, fire, or medical emergencies.)

SPECIAL PROVISIONS (CONTINUED).

SAMPLE

ADDITIONAL SPECIAL PROVISIONS

Becomes part of Lease Contract

DWELLING DESCRIPTION. 5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown *(city),*
West Virginia, 26501 *(zip code).*

LEASE CONTRACT DESCRIPTION. Lease Contract date: February 27, 2026

Owner's Name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

INTERNET. We provide internet service as a separate service from the utilities provided in this Lease. You acknowledge that the internet service is a shared service. We have no duty to you to edit, censor, review or take any responsibility for any information you or your guests may create, place on the internet, or view. You shall not use the internet we provide to engage in any criminal, illegal or unauthorized activity and any such use is a default of this Lease. Any violation of the Digital Millennium Copyright Act (DMCA) is a breach of this Lease. You shall not attempt to degrade the performance of the internet service or hamper the ability of others to use the internet. You shall not use rogue devices, including wireless routers or modems or take any measurers to interfere with our internet systems by configuring devices connected to our network so that they can communicate on our network using the internet protocol. We will provide internet service to you for your noncommercial use. Your use of the internet is at your sole risk and we are not responsible for your equipment, programs or software. Although we strive to provide superior internet service and sufficient bandwidth to our residents, we are not responsible for slow internet or other residents taking up significant bandwidth. NON-REFUNDABLE ADMINISTRATIVE FEE. In addition to the Rent you agree to pay, a one-time non-refundable application fee ($50) and administrative fee ($150) for the use of facilities and service-related functions associated with this Lease. This fee in no way releases you from the obligation of leaving your Bedroom and the Apartment in a good and clean condition, reasonable use and wear excepted. The Service Fee is not a security deposit and is non-refundable and becomes our property whether or not you take possession of your Bedroom. Community Policies: Section 3: Entry Devices item (e) is replaced with the following. All after hours lockouts are subject to a charge of $50 due in advance of services. One free courtesy lockout will be provided during business hours. Afterward, all lockouts during office hours are subject to a fee of $20.

SAMPLE

Resident(s) *(All residents must sign)*	**Date of Signing Addendum**

Owner or Owner's Representative	**Date of Signing Addendum**

© 2023, National Apartment Association, Inc.

Community Policies/Master Lease Addendum

RENTERS' RIGHTS AND RESOURCES: The Renters' Rights and Resources are available and may be viewed on https://www.greystar.com/renters-rights-resources

1. Preface

This Master Lease Addendum contains community rules, regulations, and/or policies that are incorporated into and part of your Lease Contract. They apply to you and your occupants, guests, and invitees. Use of "we", "us", and "our" in this Addendum refers collectively to the owner of the community and the owner's authorized agents/representatives. Violation of any provision of this Addendum may result in termination of your right of possession and/or your Lease Contract. The community rules, regulations, and/or policies in this Addendum may be added to, amended or repealed at any time in accordance with your Lease Contract. This Addendum is intended to supplement your Lease Contract. To the extent there is any inconsistency between this Addendum and the Lease Contract, the provisions of the Lease Contract control.

2. No Reliance on Security Devices or Measures

You acknowledge that cameras may be installed at some or all of the gates and in various common areas throughout the community. If cameras are installed, these areas may be recorded. Cameras, if installed, are for the sole purpose of protecting our real and personal property. Such cameras are not intended to protect, monitor, provide security for, or give a sense of security to you or any occupant or guest. You acknowledge that, given the limited purpose for which cameras may be installed or used, we have no obligation to cause such cameras to be monitored. We have no obligation to preserve or make available the contents of any recordings to you or others.

3. Entry Devices

In the event your community requires an entry device, the following policies apply.

a) **Access Card, Remote or Key Fob:** You and each occupant if you request, will receive one controlled access device of our choice. Additional devices may be available for an additional charge of $____N/A____.
b) **Damaged, Lost or Unreturned Cards, Remotes, or Fobs:** If a controlled access device is lost, misplaced, stolen damaged, or not returned at termination of this Agreement, a fee of $____75.00____will be charged for each device replacement.
c) **Duplicate, Lost or Unreturned Keys:** A charge of $____75.00____will be owed for each duplicate, lost or unreturned key.
d) **Re-keying Lock:** If you wish to have your apartment home, storage, mailbox, and/or garage lock(s) re-keyed because you have lost your key or for any other reason you agree to pay a re-keying fee of $____75.00____which is due prior to changing your locks.
e) **After Hours Lock Outs:** After office hours, you must contact and pay for a locksmith if you have locked yourself out.
f) **Lock Outs During Office Hours:** If you are locked out of your apartment home during business hours, contact us. A picture I.D. may be required to gain access to your apartment home.

4. Patios / Balconies / Private Yards

In the event your community has patios, balconies, or private yards, the following policies apply.

Items Prohibited

Combustible Materials	Flags	Furniture designed for Indoor Use
Firewood	Charcoal & Gas Grills	Bicycles hung from ceilings or walls
Unsightly or Heavy Items	Propane Tanks	Laundry
Motorcycles	Automobile Tires, Parts, Equipment	Signs

a) **Resident Responsible for Private Yard:** In the event your apartment home has a private yard and you are responsible for maintenance of the yard, maintenance will include, but not be limited to, mowing, edging, shrub trimming, watering, debris removal, weeding, etc. You agree to maintain the landscaping in a healthy condition (free of weeds, holes, fungus/parasites, pet feces, trash, debris and consistent color in sod, etc.). If your private yard is not maintained to the community standards, we have the right to maintain it and charge our actual cost each time maintenance is required. Upon move-out, we can deduct any amounts owed for damage to the private yard which exceed ordinary wear and tear from the security deposit as allowable under the Lease Contract.
b) **Community Landscaper Utilized for Private Yard:** In the event your apartment home has a private yard and your community landscaper maintains the private yard, there may be an additional monthly fee of $____N/A____required. You are still responsible for maintaining the landscaping in a healthy condition (free of weeds, holes, fungus/parasites, pet feces, trash, debris and consistent color in sod, regular watering, etc.). You agree to provide access so that routine yard management maintenance can occur. If your private yard is not maintained to the community standards, we have the right to maintain it and charge our actual cost each time maintenance is required. Upon move-out, we can deduct any amounts owed for damage to the private yard which exceed ordinary wear and tear from the security deposit paid as allowable under the Lease Contract.

5. Gardens

In the event your community has a garden for the enjoyment of all residents, the following policies apply.

a) Unless otherwise posted, the hours are from dawn to dusk.
b) Use at your own risk. In case of emergency, call 911.
c) You agree to plant the garden plot within two weeks of being assigned a designated area.
d) You agree to maintain the designated plot and to keep plants within the assigned/designated area.
e) We encourage an organic gardening program. Use of pesticides, herbicides, and insecticides made from synthetic materials as well as use of chemical fertilizers are not advisable. Slug bait is permitted only when used in enclosed containers, which must be removed from the site after use. Use of raw human and/or animal waste is not allowed due to environmental and health concerns. Fully composted manures, such as steer and chicken manure, are allowed.
f) No illegal plants may be grown, including but not limited to any plant listed by the state agencies and weed control board as noxious weeds.
g) Only water your assigned garden plot.
h) Maintain healthy plants and remove dead plants in a timely manner (not to exceed one week duration).
i) Materials other than plants are prohibited, except items that assist in growth.
j) All tools provided by us must remain in designated areas. We are not responsible for injuries due to the use of tools. If you need any additional tools, they are your responsibility.
k) Debris after planting, any remaining soil, fertilizer, etc. must be swept immediately.
l) Garden plots will expire with your lease, and may be renewed at the time of lease renewal. If you decide not to renew usage, the plot must be cleaned out and left in the original condition. Renewal is not guaranteed.
m) We are not responsible for lost, stolen, or damaged plants or other items.
n) Please be respectful of the neighbors who live around the gardens. No smoking, noise disturbances, or horseplay is allowed.
o) Animals are not allowed in the garden plot areas, except assistance animals.

6. Inside or Near the Apartment Home

6.1 Windows and Doors: Any window treatment installed by you shall present a uniform appearance with the exterior of the building. The use of foil and other similar materials, on windows is strictly prohibited. You will not obstruct any windows or doors.

6.2 Welcome Mats and Heavy Items: You may place a welcome mat in front of your entry door subject to our approval. Rugs or carpet remnants are not permitted. You shall not place any unusually heavy objects on the floor of the Premises, such as pool tables, waterbeds, etc. without our prior written permission. You will not obstruct any doorways, stairs, entry passages, breezeways, courtyards, or halls of the community.

6.3 Soliciting: Soliciting is not permitted in the community. Unless allowed by law or following our prior written permission, you shall not distribute, post, or hang any signs, flyers, advertisements, or notices in any portion of the community.

SAMPLE

6.4 Fireplace: In the event your apartment home has a fireplace, you agree to use the fireplace for the intended purpose and at your own risk. Never use flammable liquids to start fires and never burn anything other than seasoned firewood. Clean your hearth of any flammable materials. Do not attempt to clean the inside of the chimney. Report maintenance needs to us immediately. Use a mesh screen and leave glass doors open when burning fires. If applicable, open the flue/damper before lighting a fire. Close the flue/damper only when the fire is completely out, the smoke has ceased to rise, and the wood is cool. Never leave a fire unattended. Put all fires out completely before going to bed or leaving the apartment home.

6.5 Furniture, Televisions, Appliances: In the event your apartment home has furniture, televisions, and/or appliances included, you agree to maintain them in a clean condition, reasonable wear and tear excepted. Removal of these items is not allowed. Upon move-out, these items must be placed in the same location they were upon move-in. You will pay the cost to repair, replace, or clean the furniture, televisions, and/or appliances.

6.6 Wires and Personal Items Outside the Home: No radio, television other wires are permitted on any part of the apartment home. You shall not store personal items in the outside walkways, breezeways or under stairs.

7. Odors

You, your occupants, guests, and invitees acknowledge that we cannot prevent odors in and around your apartment home and community.

7.1 Resident Responsibilities: If you create odors, you shall provide proper ventilation so you do not disturb or cause inconvenience to others.

7.2 Removal of Odors: If the carpet, walls, A/C ducts, or other items in the apartment home retain odors due to your use or surrounding residents complain about the odors, you will be responsible for the cost for removing unwanted smells and odors.

8. Parking and Vehicles

In the event your community has parking for residents, the following policies apply. Guests must park in guest parking only.

a) **Speed Limit:** Unless otherwise posted, the speed limit is ten (10) miles per hour.
b) **Posted Signs:** You are responsible for following all posted signs including height restrictions, mounted mirrors, and traffic control devices.
c) **Unassigned Parking:** In the event parking at your community is unassigned, you can park on a first-come, first-serve basis, except in designated areas. Parking spaces are not guaranteed.
d) **Assigned Parking:** In the event parking at your community is assigned, you must park only in your assigned space.
e) **Limitation of Vehicles:** We will advise you if your community has a limitation on the number of vehicles allowed.
f) **Restricted Vehicles:** Unless specifically allowed in designated areas, including carports and/or garages, the following are not allowed: campers, trailers, boats, buses, large trucks, commercial vehicles, mobile homes, trailers, recreational vehicles and equipment. Violators will be towed away without notice at the vehicle/equipment owner's expense.
g) **No Vehicle Repairs:** Automobile repair work is not allowed on the community. Washing vehicles is not allowed unless there is a designated car care facility.
h) **Vehicle Insurance:** All vehicles will be parked at your own or the vehicle's owner's risk, and you will maintain proper insurance on your vehicles.
i) **No Loitering or Recreational Activities:** You, your occupants, guests, and invitees may not engage in the following activities in parking areas: loitering (standing or waiting around), recreational activities, or disrupting the flow of traffic.
j) Improperly parked, non-operable, abandoned, or unauthorized vehicles or equipment are not permitted in the community and may be removed by us at your expense or the expense of any other person owning same, for storage or public or private sale, at our option with no right of recourse against us. The definition of improperly parked, non-operable, abandoned, or unauthorized vehicles or equipment shall be liberally construed in our favor. In addition, but not limited to their generally accepted definitions, "improperly parked", "non-operable", "abandoned", and "unauthorized" shall also mean vehicles or equipment which: (1) Are noxious, offensive, unsightly, unpleasant or unkempt such as could reasonably affect the appearance or rental marketability of the community or such as could reasonably cause embarrassment, discomfort, annoyance, or nuisance to us or other residents; (2) Are not displaying any required hangtag, decal, or other identifier provided by us; (3) Are left unattended for a period of not less than thirty (30) days without anyone having claimed ownership of it.

9. Parking Tags/Stickers

In the event your community requires parking tags/stickers, the parking tag/sticker must be visibly displayed either on the rear-view mirror or taped next to the vehicle registration. We are not responsible for damage to tint or glass due to the sticker. The vehicle can be towed without notice at the vehicle owner's expense in accordance with state law.

a) You agree to advise your guests and invitees to park in the designated guest parking spaces only.
b) If your sticker/tag is lost, stolen, damaged, or not returned upon move-out, a replacement fee of $ 35.00 will be assessed to your account.

10. Animals

10.1 Assistance Animals: Assistance animals required pursuant to a disability-related need are welcome. Assistance animals must be disclosed to and approved by us. The appropriate reasonable accommodation process will apply.

10.2 Pet Policies: No animals of any kind are permitted in your apartment or the community without our prior written consent. In the event your community allows pets, the following policies apply.

a) **No More Than Two Pets:** A maximum of two pets per apartment home is permitted.
b) **Weight Limits:** Pets shall not exceed your community's weight limit.
c) **Restricted Breeds and Prohibited Dogs**: The following breeds are not permitted on the community: Rottweiler, Doberman Pinscher, Pit Bull Terrier/Staffordshire Terrier, Chow, Presa Canarios, Akita, Alaskan Malamutes, Wolf-Hybrid, or any mix thereof. Specific communities may have additional breed restrictions. In addition, we prohibit any dog with a history of biting, injuring any person or animal, or damaging property.
d) **Determination of Breed:** Regardless of your representation as to the breed or classification of any animal, you agree that we shall make the final determination as to the breed or classification of your pet or animal in our sole and absolute discretion. Restricted Breeds shall have the broadest possible meaning, and includes, but is not limited to, any animal displaying physical traits or characteristics of any restricted breed animal, whether by observation or by standards established by the American Kennel Club, or other applicable association, or defined by any law, statute, or ordinance. If applicable, a canine DNA test may be requested at your expense.
e) **Cats:** Cats must be spayed or neutered.
f) **Animals Not Allowed in Amenities:** Animals, except Assistance Animals, are not permitted in the pool, pool area, or community amenity areas such as the business and fitness centers. No animals will be allowed in the pool or spa water.
g) **No Staking Animals:** Animals may not be tied to any fixed object anywhere outside the dwelling units, except in fenced yards (if any) for your exclusive use.
h) **Aquariums:** Aquariums up to 20 gallons are allowed without a pet deposit or fee. Aquariums over 20 gallons may require a pet deposit or fee in addition to proof of renter's insurance.
i) **Secure Animals During Service Requests:** Remove animals or place them in a room behind a closed door or kennel/crate with notification to us.

11. Trash Removal and Disposal

a) **Curbside Pick Up:** In the event your community offers curbside trash pick-up, contact us for the scheduled days and times of pick-up. You agree not to leave any trash out on days that are not scheduled for pick-up. We reserve the right to remove curbside trash pick-up service upon written notice to you of the change.
b) **No Curbside Pick Up:** In the event your community does not offer curbside trash pick-up, you shall dispose of your bagged and tied trash inside the compactor/dumpster facility as instructed by us or by the sign near the compactor/dumpster.
c) **Trash Chutes:** In the event your community has trash chutes, contact us for the scheduled hours of operation. Securely tied, kitchen-sized bags are required. No loose items can be put in the trash chute. Do not use the chute for recycling. No boxes or large trash can be placed in the chutes. Contact us for details or questions regarding the use of the trash chutes.
d) **Recycling:** In the event recycling is offered at your community, you are responsible for complying with all recycling regulations.
e) **Potential Charges:** You may be charged $25 per bag for any trash left outside your apartment home or in breezeways. Please contact us if you require further instruction regarding proper disposal of garbage with the compactors, dumpsters, or chutes.

SAMPLE

f) **No Litter:** Do not leave cigarette butts or other trash near or around patios/balconies, under windows, or near entry doors. We reserve the right to assess a fine of $25 per incident.
g) **No Furniture as Trash:** No furniture may be left for trash removal.
h) **Dumpster Use for Residents Only:** Only you and your occupants are permitted to use the dumpster/compactor.
i) **No Dumpster Diving:** Do not retrieve items from the dumpster. Digging or scavenging is prohibited.
j) **General:** Please break down empty boxes. Keep the area clean and litter free. If applicable, close the lid after use.
k) **No Parking in Front of Dumpster:** Parking in front of the dumpster/compactor is not allowed.
l) **Prohibited Items:** You understand that you cannot place the following items in or around the trash dumpster or compactor: propane tanks, flammable or toxic materials, furniture, bedding, appliances, auto batteries, tires, and oil/petroleum products.

12. Pest Control

12.1 Extermination: Unless prohibited by statute or otherwise stated in your Lease Contract, we may have extermination operations conducted in the apartment home several times a year and as needed to prevent insect infestation. If pest control services are provided, you shall pay the amount of $_____**N/A**_____on or before the first day of each month to reimburse us for extermination services to the apartment home. You shall pay such fee in the same time and manner as you pay rent pursuant to your Lease Contract. You must request in writing extermination treatments in addition to those regularly provided by us.

12.2 Preparations for Extermination: If the apartment home is not prepared for a scheduled treatment date, we will reschedule treatment at your expense. You agree to perform the tasks necessary to prepare the apartment home for extermination, including:
a) removing people sensitive to the extermination treatment from the apartment home;
b) removing animals or placing them in bedrooms with notification to us;
c) removing animal food bowls;
d) removing all food, utensils, glasses, and dishes and food containers from countertops and floors;
e) removing chain locks or other obstructions on the day of service;
f) removing contents from shelves, cabinets, and floors where pests have been seen;
g) cleaning all cabinets, drawers, and closets in kitchen and pantry; and
h) refraining from wiping out cabinets after the treatment.

12.3 Notify Us of Health Issues: You are solely responsible for notifying us in writing prior to extermination of any anticipated health or other concerns related to extermination and the use of pesticides.

12.4 Your Responsibilities: To reduce the possibility of pests, you shall: (a) store all food in sealed containers; (b) not leave food or dirty dishes out; (c) empty all cans and bottles and rinse them with water; (d) immediately dispose of unused paper grocery sacks; (e) sweep and mop the kitchen regularly; (vi) vacuum carpets frequently to remove crumbs and other food particles; (f) remove trash immediately; (g) not put wet garbage in the trash; (h) use the garbage disposal if available; (i) not leave windows or doors open allowing pests to enter; and (j) comply with any instructions/protocol from the extermination company.

13. Packages / Deliveries

In the event your community accepts packages for residents we do so in our sole discretion and the following policies apply:
a) We will only accept packages from a commercial delivery service (UPS, Federal Express, etc.) and United States Postal Service. We will not accept any package shipped COD or having postage due.
b) In the event your community offers a package locker system, couriers will make all deliveries exclusively through the locker system. Refer to your community for the locker location name to be placed on address delivery label(s), which will instruct couriers of proper delivery.
c) We will not be responsible or liable for any lost or stolen deliveries which we sign for or accept. While your deliveries are in our possession, both during and after office hours, your deliveries are not secured.
d) Pick up your deliveries within 48 hours. If you do not pick up your delivery within 48 hours, we reserve the right to return to sender.
e) Occasionally the number of deliveries may become too great or too cumbersome; therefore, we reserve the right at all times to refuse deliveries.
f) We have no obligation to contact you when accepting packages. This is your and the deliverer's responsibility.
g) Deliveries or service requiring entrance into your apartment home by anyone other than us will be allowed only with your prior written permission.
h) We are not responsible for articles or parcels left at your door or in the office by delivery services.
i) We will not be available after hours to allow you access to your deliveries. You must pick up your packages during regular office hours.
j) You shall not have perishable goods delivered to the office unless your community has approved such delivery in advance or offers refrigerated lockers.
k) We may not accept packages that are over 25 pounds or larger than 2'x2'x2'.
l) You may be required to present a photo ID and/or signature when picking up a package.

14. Maintenance Emergencies

Service requests will be handled after office hours if they are emergencies. We define emergencies as the following:
a) Electrical or gas failure of any nature
b) Broken or non-working exterior doors, locks, windows
c) Malfunctioning access gates that are locked and will not open
d) No heat (when outside temperature is below 60 degrees)
e) No air conditioning (when outside temperature is above 85 degrees)
f) No water
g) Overflowing toilet
h) Flooding
i) Broken pipes
j) Fire (call 911 immediately)
k) After business hours, emergency service requests can be reported by calling the office. The on-duty service technician will be notified and will respond as quickly as possible.

15. Apartment Home Transfers

When transferring to another apartment home within the community:
a) You shall not replace or transfer your interest in the Lease Contract, or any part hereof, without our prior written consent. If you are in violation of the Lease Contract, you will not be approved for a transfer.
b) You must sign a Transfer form.
c) The criteria for qualifications of credit, income and employment, residence, and criminal must be met for residents that transfer within the lease term or at the end of the lease term.
d) You must fulfill at least 3 months of your current lease term before you will be eligible to transfer to a new apartment home.
e) If applicable, a transfer fee must be paid prior to transferring. A new security deposit may be required to secure the new apartment home. In addition, market rent, new pet deposit/fees (if applicable) and other applicable fees must be paid.
f) You are required to provide a written move-out notice according to your Lease Contract from the current apartment home. The vacated apartment home must be left in the condition described in the move-out cleaning instructions. We will inspect the apartment home and forward statements and deposit refunds to your new address.
g) If you cancel the transfer after the new apartment home has been assigned and taken off the market, you will be responsible for any economic loss sustained resulting from your failure to rent the new apartment home.
h) You shall be responsible for all moving costs including those associated with switching utilities and services to the new apartment home if a transfer is approved.

SAMPLE

16. Amenities / Facilities

Swimming Pool	*BBQ Grill/Fire Pit*	*Spa or Hot Tub*	*Club Room*	*Dog Park/Spa*
Sports Court	*Car Cleaning Facility*	*Game Room/Theater*	*Laundry Room*	
Tanning Facilities	*Sauna*	*Business Center*	*Fitness Facilities*	
Video Library	*Nature/Hiking Trail*	*Playground*	*Roof Top Deck*	

In the event that your community hosts any of the above or other amenities, the following apply:

- In an emergency, call 911
- Attendants are not provided
- Use amenities at your own risk
- Comply with posted signs
- Use equipment in the manner it is intended
- Do not destroy any equipment/amenity
- Report any equipment needing repair or vandalism
- Do not remove any equipment
- Wear appropriate attire
- Be mindful of others when using amenities and limit time as necessary
- Only two guests are allowed and must be accompanied by you
- We are not responsible for accidents, injuries, or lost, stolen, damaged, or misplaced items
- You agree to hold us harmless from any and all claims, damages, or expenses related to the use of amenities

17. Amenity / Facility Safety-Related Restrictions

17.1 Safety-Related Restrictions: Our community contains amenities/facilities that are intended to enhance the living experience for you and your occupants. You agree that, for safety-related reasons, certain amenities/facilities may require restrictions on use. You agree to abide by posted signs. You further agree that you, your occupants or guests will be supervised, as needed, by someone possessing the proper skills to supervise the particular activity at the amenities/facilities.

17.2 Residents Shall Exercise Their Own Prudent Judgment: You, occupants and guests are advised to exercise their own prudent judgment with respect to the unsupervised use of the facilities located throughout the community. By establishing safety-related use restrictions, we are not in any manner representing, guaranteeing or ensuring the safety of any persons when participating in the activities or using the facilities of the community with or without supervision.

18. Swimming Pool and Spa / Hot Tub

In the event your community has a pool and/or hot tub for the enjoyment of all residents, the following policies apply. Please follow posted signage.

a) We do not provide, at any time, safety or supervisory personnel at the pools, hot tubs, spas, or any other common area. LIFEGUARDS ARE NOT PROVIDED. SWIM AT YOUR OWN RISK. FOR YOUR SAFETY, DO NOT SWIM ALONE.
b) No diving. Diving may result in injury or death.
c) We cannot and do not assure, guarantee or warrant your safety.
d) Assistance animals are allowed in the pool area if necessary due to a disability-related need; however, no animals will be allowed in the pool or spa water.
e) We are not responsible for accidents, injuries, or lost, stolen, damaged or misplaced items.
f) No jumping into the pool from balconies, patios, fountains, or other structures near the pool.
g) Keep gates closed at all times.
h) Respect others by covering pool furniture with a towel. Do not remove pool furniture from pool areas. Dispose of trash properly.
i) Overexposure to hot water may cause dizziness, nausea, and fainting. Hot water exposure limitations vary from person to person.
j) Check the hot tub temperature before entering the hot tub. Do not use the hot tub if the temperature is above 104 degrees. Do not operate the hot tub if the suction outlet cover is missing, broken, or loose.
k) Do not place electrical appliances (telephone, radio, TV, etc.) within five feet of the pool or hot tub.
l) Appropriate swimwear is required at all times as determined by us. Diapers are not allowed unless they are swim diapers.
m) You are limited to 2 guests to any pool/hot tub area, and you must accompany your guests at all times.

19. Sports Courts (Tennis, Volleyball, Basketball, etc.)

In the event your community has sports courts (tennis, volleyball, basketball, etc.) for the enjoyment of all residents, the following policies apply.

a) Motorcycles, bicycles, tricycles, roller blades, skateboards and skates are not permitted on the court surface.
b) Do not sit or lean on the net. Do not hang from or climb on the goal or nets.
c) Proper athletic shoes with rubber soles are required.

20. Club Room / Game Room / Theater

In the event that your community provides a club room, game room, and/or theater for the enjoyment of all residents, the following policies apply.

a) No wet clothing permitted.
b) Clubroom hours are determined by us.
c) All items must be returned, in the condition in which they were received prior to leaving.
d) Use the facility at your own risk. Use the equipment only in the manner intended by manufacturer.
e) Do not remove or damage equipment and supplies.

21. Tanning Bed, Tanning Dome, or Spray Tan Booth

In the event a tanning device(s) is provided for the enjoyment of all residents, the following policies apply:

a) Failure to use the eye protection may result in permanent damage to your eyes.
b) Overexposure to ultraviolet light (whether from natural or artificial sources) causes burns.
c) Repeated exposure to ultraviolet light (whether from natural or artificial sources) may result in premature aging of the skin and skin cancer.
d) Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain food, cosmetics, and medications.

22. Video / DVD Library

In the event your community provides a video/DVD library, the following policies apply.

a) You acknowledge and agree to be fully responsible for any and all videos/DVDs borrowed by self or other occupants while using the video services provided.
b) All videos/DVDs must be returned in good working condition (except reasonable wear and tear) within 48 hours.
c) We are not responsible for persons borrowing videos/DVDs that may not be suitable for themselves or others.
d) We may charge your account the total amount owed including late charges and/or market value of all items not returned in good working condition.

23. Business / Computer Center

In the event your community has a business center for the enjoyment of all residents, the following policies apply:

a) The center is for use by you and occupants only.
b) We are not responsible for lost, stolen or damaged items, content viewed, viruses or loss of information.

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c) Smoking, food and drinks are prohibited.
d) Please be considerate of others. Limit computer use to 30 minutes when others are waiting.
e) You must provide their own document/data storage. Do not install or download any program, file or software on the business center equipment. Data created, stored or saved on the business center equipment will not be private, may be used by us for any purpose and will likely be deleted. *Incoming faxes are prohibited.*
f) We reserve the right to monitor, intercept, review, and erase, without further notice, all content created on, transmitted to, received or printed from, or stored or recorded on the courtesy devices.
g) Users should not use the courtesy device to transmit or store personal information, including user names, passwords, addresses, driver's license numbers, social security numbers, bank information, or credit card information.
h) The courtesy device and associated access to the internet may not be used to (a) violate United States, state, or foreign laws; (b) transmit or receive material that is threatening, obscene, harassing, discriminatory, defamatory, illicit, or pornographic; or (c) interfere with or disrupt network users, services, or equipment.
i) Attempts to remove equipment from the business center will engage the alarm system.
j) Users may not alter or damage existing hardware or software. Do not modify screensavers or background images on business center equipment.
k) Violation of any or all of the above stated rules may result in termination of business center use or other remedies under the lease.

24. Barbecue Grill / Outdoor Kitchen / Fire Pit / Fire Place

In the event your community has barbeque grills, outdoor kitchens, fire pits, or fire places for the enjoyment of all residents, the following policies apply.
a) Barbecue grill instructions may be posted at each location or are available from us. Please contact us before attempting to use these grills.
b) Keep pets and persons requiring supervision away from open flames.
c) Your community may require a deposit or fee to use the facility. Contact us for further details.
d) Never leave a fire unattended. Do not leave until the fire is completely out.
e) Keep flammable materials away from the fire.

25. Laundry Room

In the event your community has laundry rooms, the following policies apply.
a) Use appropriate settings on washers and dryers. Any loss or damage to clothing is not our responsibility.
b) No dying of clothes is permitted.
c) Do not wash or dry oversized items.
d) Remove lint from dryer before and after each use. Wipe down after use. Please leave machines clean.
e) Facilities are for use by you and occupants only.

26. Dog Park/Spa

In the event your community has a Dog Park or Spa for the enjoyment of all residents, the following policies apply.
a) Animal owners are responsible their animal's behavior, for damage or injury inflicted to or by their animal(s). Animal owners must remain with dogs in fenced area at all times.
b) You are limited to 2 animals per person in the Dog Park or Spa
c) Dogs must be leashed when entering and exiting the park and must be leashed in the transition corridor, if applicable. You must have a visible leash for each dog at all times.
d) Animals with a known history of dangerous or aggressive behavior are prohibited. Immediately leash your dog(s) and leave the Dog Park if your dog behaves aggressively.
e) Puppies under 6 months of age and female dogs in heat are not allowed in the Dog Park.

27. Roof Top Deck

In the event your community has a roof top deck for the enjoyment of all residents, the following policies apply.
a) You, your occupants and guests shall not walk in any areas on the roof other than the designated walkway and roof top deck itself.
b) Nothing shall be thrown or intentionally dropped over the edge of the roof. You, upon the first infraction of this policy by you, your occupants or guests, may have use privileges revoked and/or residency terminated.

28. Photographs, Digital Images, Video

All residents, occupants, visitors and guests, while in common areas, give Owner, management company, their employees, agents, subsidiaries and authorized vendors the right to record their image and/or voice, and grant Owner and management company all rights to use these sound, still, or moving images in any and all media, now or hereafter known, and for any purpose whatsoever.

A release to Owner, management company, their employees, agents, subsidiaries and authorized vendors is granted for all rights to exhibit this work in all media, including electronic form, publicly or privately. The rights, claims or interest controlling the use of identity or likeness in the sound, still or moving images is waived and any uses described herein may be made without compensation or consideration.

29. Wildlife

29.1 Definition of Wildlife: Wildlife can include the presence of alligators, bears, crocodiles, snakes, opossums, raccoons, or other non-domesticated animals. In the event wildlife is found on the community, you agree to the following.

29.2 Resident Acknowledgements: You assume the risk with respect to having wildlife near your apartment home and acknowledge that we are not liable for any injuries, damages or losses to persons or property caused by or related to the wildlife.

29.3 Resident Responsibilities: You will be responsible for informing occupants, guests and invitees about the wildlife and enforcing their compliance with the following:
You, your occupants and guests will not:
a) feed, get close to, or attempt to catch the wildlife;
b) swim, wade or play near the wildlife;
c) dispose of garbage of scraps near a water source, pond, lake, or other area that may contain wildlife.

30. Body of Water (Lake, Pond, Water Features)

You will be responsible for informing occupants, guests and invitees about the bodies of water and enforcing their compliance with the following:
No one will
a) swim or wade in any body of water that is not designated as a swimming pool;
b) boat on any body of water unless approved by us;
c) ice skate or conduct any other type of water sport in or on the bodies of water.

31. Elevators

In the event your community has an elevator (s) for the enjoyment of all residents, the following policies apply.
a) Do not attempt to maneuver or stop closing doors. Wait for the next elevator car.
b) In the event of a fire or other situation that could lead to a disruption in electrical services, take the stairs.
c) When entering and exiting the elevator, watch your step as the elevator car may not be perfectly level with the floor.
d) Do not climb out of a stalled elevator. Use the alarm, help, or telephone button to call for assistance.

32. Construction or Renovation

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In the event your community is under construction or renovation, the following policies apply:

a) **Inform Occupants and Guests:** You will be responsible for informing occupants, guests, and invitees about these policies.
b) **Stay Away from Construction Areas:** You agree to observe all warning signs and blockades. You agree to stay away from the construction areas and shall not climb on or enter onto scaffolding or other construction equipment at any time. You acknowledge there may be construction debris, trip hazards, and uneven surfaces. Construction crews may work throughout the days to complete construction.
c) **Machinery and Equipment:** You acknowledge the construction areas will have machinery and equipment to be used by authorized personnel only and entry into those areas by you, your occupants, guests or invitees is strictly prohibited.
d) **Minor Disturbances:** You acknowledges that the construction/renovation may cause noise, dust, and minor disturbances to the egress/ingress on or about the community and minor disturbances to the quiet and enjoyment of the apartment home.
e) **Amenities May Be Unavailable:** You further agree that the amenities, including the clubhouse, pool, or other common areas, may be unavailable for use by you, your occupants, guests and invitees during the period of construction.
f) **Resident Waives Right to Withhold Rent:** Except as otherwise prohibited by law, you hereby waive any right to withhold rent due to inconvenience or disturbance of quiet enjoyment of your apartment home or the inability to use the amenities or common areas or put forward such noise or construction activity as a breach of our duty pursuant to applicable law.
g) **Move-In Date Not Guaranteed Due to Construction Delays:** You acknowledge that the move-in date cannot be guaranteed in the case of unforeseen construction delays. You acknowledge that you will not be compensated for any unforeseen occupancy delays. If you terminate the Lease Contract early for any reason other than construction delays, you will be responsible for all applicable early termination charges and procedures.

33. Prevention of Mold

You agree not to conduct any mold or other environmental testing of your apartment without giving us at least 72 hours advance written notice to enable us to have a representative present during testing. You agree that failure to provide such notice means the testing is not admissible in any legal proceedings.

34. Fire/Freezing Weather/Floods/Other Emergencies

Emergency situations may occur during your residency. Please remember that you are responsible for your own safety and the safety of your occupants, guests and invitees. You should look to the proper authorities for any assistance when needs exceed your abilities. Please note the following regarding certain emergency situations.

34.1 Fire Hazards:

a) Follow fire safety and fire safety regulations while in the apartment home and community.
b) No flammable or combustible objects/substances are to be stored on patios, balconies, under stairwells, in your garage or storage space and should not be within 30 inches of an item which produces heat (water heater, furnace, stove, oven, candle, curling iron, etc.).
c) Items which require an open flame to operate or which produce heat (e.g., Bunsen burners, sterno/canned heat, lighted candles, alcohol burners, heating elements, irons, curling irons, halogen bulbs, stove, oven) must be supervised at all times during use and should never be left unattended.
d) Do not obstruct or use the driveways, sidewalks, entry passages, stairs, breezeways, courtyards, or halls for any purpose other than ingress or egress.
e) Fireworks are prohibited inside the apartment home or anywhere within the community.

34.2 Fire Alarms: In the event residents are given procedures for fire alarms, you, your occupants, guests and invitees are required to adhere to all procedures.

a) You and your occupants, guests, and invitees must not tamper with, interfere with, or damage any alarm equipment and/or installation.
b) In the event the community has a fire sprinkler system, you acknowledge and hereby agree that it is important to be careful near fire sprinkler heads so as not to falsely trigger or activate them. If you trigger or activate the fire sprinkler system, you will be responsible for all damages caused by the activation.
c) Anyone found to falsely pull a fire alarm will be subject to criminal charges, a fine, and/or a default of the Lease Contract.
d) An extension cord must be UL approved, 16 gauges, and not exceed an un-spliced length of six feet with a polarized plug and a single outlet; it may not be placed under floor coverings or furnishings and may not be secured by penetrating the insulation.

34.3 Freezing Weather: You shall follow these precautions when subfreezing weather occurs.

a) Leave the heat on 24 hours a day at a temperature setting of no less than 55 degrees. Keep all windows closed.
b) Leave open the cabinet doors under the kitchen sink and bathroom sink to allow heat to get to the plumbing.
c) Drip all your water faucets 24 hours a day. If severe subfreezing weather occurs, it may be necessary to run your faucets at a steady, pencil-lead stream when you are in the apartment home and when you are gone. This includes hot and cold water in your kitchen, bathroom lavatories, bathtubs, shower, wet bar sinks, etc.
d) Leave all drains open and clear of obstacles; including lavatories, sinks and bathtubs.
e) If you notice a water leak, icy spot or other hazardous condition on the community, notify us IMMEDIATELY.

34.4 Floods:

a) If heavy rain, storms or flooding is forecast, you should follow the guidelines below. Do not put tape on the windows unless directed by us.
b) Unplug all appliances and televisions. Do not plug appliances back in until the water completely recedes and community personnel give you permission.

35. Power Outage

In the event of a power outage that lasts more than 24 hours, we have the right, but not an obligation, to dispose of the contents of the refrigerator/freezer in your apartment home. You waive any claim and hold us harmless for the disposal of such contents. You agree not to seek recovery against us for interruption of power that results in disposal, loss, or spoilage of refrigerated or frozen food.

36. Payments

Unless otherwise allowed at your community, we only accept electronic payments. Cash, paper checks, paper money orders or other forms of payment will not be accepted. Credit and Debit Card transactions may not be allowed.

36.1 ACH, Credit, and Debit Cards: Automated electronic payments include ACH and Credit and Debit Card transactions. ACH refers to the nationwide network of banking institutions that have agreed to process electronic payments automatically from your bank account to our bank accounts. Virtually all banks and credit unions participate. Credit and debit card transactions refers to credit and debit card transactions, including those cards bearing the Visa, MasterCard, Discover and American Express logos. Collectively, “automated electronic payments” are paperless transactions that occur instantly and automatically without a check being hand-processed through a local bank clearinghouse or the Federal Reserve System.

36.2 Advantages in Paying Rent via ACH: There are advantages for you in paying your rent via automated electronic payments, including:

a) Greater convenience since you won’t have to worry each month with writing, mailing or delivering a rent check;
b) No late charges since your rent will be paid timely, assuming there are sufficient funds in your checking account;
c) Greater security since there is little chance that a check signed by you will fall into the wrong hands or get lost in the mail; and
d) Proof that you’ve paid since your bank statement is evidence of payment according to ACH and card network rules.

36.3 Electronic Money Orders: We also accept electronic money orders. Details on this payment option are available at the office.

36.4 Check Scanner: If your community accepts paper checks and uses a check scanner, you are hereby advised that personal checks remitted for normal payments will be scanned and the funds will be electronically withdrawn from your bank account via “Automated Clearing House” (ACH). If you wish to opt out of this process, you must choose another payment method. Standard ACH bank drafts occur after one business day.

36.5 Electronic Check Conversion: If your community accepts paper checks, please be aware that we may use electronic check conversion. This is a process in which your check is used as a source of information (for the check number, your account number, and the number that identifies your financial institution). The information is then used to make a one-time electronic payment from your account (an electronic fund transfer). The check itself is not the method of payment. Your electronic transaction may be processed faster than a check. Be sure you have enough money in your account at

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the time you make a purchase or payment. Your financial institution will not return any checks that are converted, even if you normally receive your original checks or images of those checks with your statement. Always review your regular account statement from your financial institution. You should immediately contact your financial institution if you see a problem. You have only 60 days (from the date your statement was sent) to tell the financial institution about a problem. Depending on the circumstances, the financial institution may take up to 45 days from the time you notify it to complete its investigation. Your checking account statement will contain information about your payment, including the date, the check number, the name of the person or company you have paid, and the amount of the payment.

37. Data and Communication

You understand and accept that we may collect, retain, use, transfer, and disclose personal information, such as the first name, last name, email address, and phone number of you or your occupants in the unit. We may collect, retain, and use that information, or disclose that information to third parties to, among other things, (a) operate the Property; (b) provide services consistent with the Lease; (c) refer you to third parties that provide products or services that may be of interest to you or your occupants in the unit; (d) collect debts; and (e) conduct and analyze resident surveys. Please review the privacy policy of the owner's authorized agent at the time of residence for a discussion of the treatment of information during your lease. The current policy may be viewed at https://www.greystar.com/privacy.

Providing an email address or cell phone number to us enables us to send important announcements, including notices regarding an emergency water shut off, work to be done at the Property, or changes in office hours. By providing this contact information, you and your occupants consent to receive communications regarding marketing materials, promotional offers, community messages, and service reminders via e-mail, voicemail, calls and/or text.

By providing your and your occupants' phone numbers, you acknowledge and agree that we may contact you and your occupants at the phone number(s) that you and your occupants have provided, including through an automatic telephone dialing system and/or an artificial prerecorded voice, with information and notifications about the community and for other non-marketing, informational purposes, including in connection with expiration of your lease. You further warrant to us that you or your occupants are the subscriber for any wireless number that you or your occupants have provided. You agree to immediately notify us if you or your occupants are no longer the subscriber for a wireless number, or if a wireless number changes. Text messaging and data rates may apply.

You authorize us to deliver messages regarding renewal of your lease and other offers to you at the telephone number(s) that you have provided, including through the use of an automatic telephone dialing system and/or artificial or prerecorded voice. You acknowledge and agree that this authorization is made voluntarily.

The permissions and consents granted herein apply to the owner of the community and the owner's authorized agents/representatives, including its property manager, and will continue even after your lease expires, the owner of the community sells the community, or the property manager no longer manages the community.

38. Subletting and Replacements

38.1 When Allowed: Replacing a resident, subletting, assigning, or licensing a resident's rights are allowed only when we consent in writing. Residency at your community is subject to an application and/or approval by us. Occupancy is restricted to only the named residents and occupants that are identified in your Lease Contract.

38.2 Advertising Your Apartment: You are not allowed to advertise your apartment homes(s) without our written consent. This prohibition on advertising includes online postings, print advertising or other formats such as craigslist, Airbnb, etc.

39. Conduct

You agree to communicate and conduct yourself at all times in a lawful, courteous, and reasonable manner when interacting with us; our employees, agents, independent contractors, and vendors; other residents, occupants, guests or invitees; or any other person in the community. Any acts of unlawful, discourteous, or unreasonable communication or conduct by you or your occupants, guests or invitees, shall be a material breach of this Agreement and will entitle us to exercise all of our rights and remedies for default.

You agree not to engage in any abusive behavior, either verbal or physical, or any form of intimidation or aggression directed at us; our employees, agents, independent contractors, and vendors; other residents, occupants, guests or invitees; or any other person in the community. Any acts of abusive or offensive behavior whether verbal or physical by you or your occupants, guests or invitees, shall be a material breach of this Lease and will entitle us to exercise all of our rights and remedies for default.

If requested by us, you agree to conduct all further business with us in writing.

40. Special Provisions

The following special provision will become a part of this Addendum and will supersede any conflicting provision of this printed Addendum and/or the Lease.

_____
_____
_____
_____
_____
_____
_____

Summary	
Section and Description	**Charge**
Additional Controlled Access Device	$ N/A
Damaged/Lost/Unreturned Cards/Remotes/Fobs (per device)	$ 75.00
Duplicate/Lost/Unreturned Key	$ 75.00
Re-keying Lock	$ 75.00
Private Yard Maintenance Fine	$ N/A
Lost/Stolen/Unreturned Parking Tag/Sticker (per item)	$ 35.00
Trash Clean-up (per bag)	$ 25
Litter Fine (per incident)	$ 25
Pest Control Monthly Fee	$ N/A

This is a binding document. Read carefully before signing.

Resident(s) Signature(s) *(18 years of age and over)*

_____ **Date:**
_____ **Date:**
_____ **Date:**
_____ **Date:**
_____ **Date:**
_____ **Date:**

Owner's Representative Signature:

_____

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LEASE ADDENDUM
PERSONAL LIABILITY INSURANCE REQUIRED

In this document, the terms "you" and "your" refer to all residents signing below; the terms "we," "us," and "our" refer to the owner or owner's representative named in the Lease Contract (not to the Community Manager or anyone else).

1. **Addendum.** This Addendum is incorporated into the Lease (referred to in this addendum as "Lease Contract" or "Lease") dated 02/27/2026 between CPI-GREP Domain Owner, LLC _____ (the "Owner") and _____ _____ _____ _____ (the "Resident") for the premises located at 5000 Domain Dr _____.

2. **Insurance Acknowledgment.** You acknowledge that we do not maintain insurance to protect you against personal injury, loss or damage to your personal property or to cover your own liability for injury, loss or damage you (or your occupants or guests) may cause others. You also acknowledge that you may be responsible to others (including us) for the full cost of any injury, loss or damage caused by your negligent actions or the negligent actions of your occupants or guests, including but not limited to damage caused by fire, smoke, explosion or water damage liability.

3. **Required Renters Insurance Policy.** You are required to purchase and maintain a renter's personal liability insurance policy which provides limits of liability to third parties in an amount not less than $ 100000.00 per occurrence through an insurance company or insurance agent authorized to issue insurance in this state. Proof of coverage must be submitted for all leaseholders. Such insurance policies are often referred to as "renter's insurance policies or "liability-only insurance policies." Most renter's insurance policies contain personal liability coverage and also personal property coverage for your own property. You are only required to have personal liability insurance, however we highly recommend that you obtain coverage for your personal property too. Personal property coverage protects your property in the event of theft, fire or weather-related loss to your property. Every leaseholder is required to present proof of personal liability coverage. The policy must identify Insurance Tracking, P.O. Box 100513 Florence, SC 29502 _____ _____ as a "Party of Interest" or "Interested Party" where the "Party of Interest" or "Interested Party" must be notified within ten (10) days after your insurance company or agent renews, cancels or non-renews your policy. When insurance providers are paperless and only submit communications electronically, they are required to submit documents to greystar@assurant.com. Failure to include Insurance Tracking as the "Party or Interest" or "Interested Party" with the above-listed address and/or greystar@assurant.com will constitute a breach of this Lease.

4. **Insurance Election.** If you choose not to purchase insurance through the carrier of your choice or are unable to secure satisfactory personal liability insurance coverage, you have the option to obtain insurance coverage under an insurance program issued by an insurance carrier we have partnered with. As a resident of this property, you automatically qualify for this coverage with our preferred insurance provider with no underwriting or lengthy application. Participation in this program allows you to conveniently pay the insurance charges with your rent installment. Following your execution of this Lease, you will be sent a link via email or text message to an online insurance portal where you must either enroll in the insurance program offered by our preferred insurance provider or upload proof of insurance if you already have insurance or if you decide to purchase the insurance through a carrier or agency other than our preferred insurance provider.

If you choose to participate in this preferred insurance provider's program, you agree that you will be charged monthly with your rent for the amount of insurance premium paid to the insurance company, which amount is subject to change with notice, but shall not exceed the state approved rate for the insurance. The current rate is $ 13.00 per month. This amount covers the costs of securing personal liability coverage in an amount of $ 100000.00 and personal property coverage in an amount of $ 10000.00. The insurance company will issue a certificate of insurance to you that will describe the limits, conditions and terms of the coverage provided. A description of the insurance coverage and the insurance carrier are available by visiting the online insurance portal. If you have questions regarding the insurance program, including other available options, please call (800) 249-1104.

If you decide not to enroll in the preferred insurance provider's program described above, you will be required to upload proof of insurance coverage via the link you receive from donotreply.pol@assurant.com or help@updater.com to meet the Lease's insurance requirement. If you do not have access to upload your proof of insurance, you must contact the leasing office and the on-site staff may be able to provide you with an alternative method (e.g. business center computer, iPad, etc.).

If Owner's representative/agent no longer manages this community, it is possible the Owner's new representative may not participate in the insurance program offered by our preferred provider, and the insurance you obtained under our preferred provider's program may terminate. You will receive notice prior to termination of your policy. Upon notification of policy cancellation, you are required to purchase renter's insurance through another insurance carrier of your choice.

5. **Freedom of Choice**. At all times, you are able to purchase insurance through the carrier or agency of your choice and are not required to purchase insurance through a particular carrier or agency, including the preferred insurance provider. However, the insurance you purchase must meet the Lease's minimum requirements at all times. By signing this Addendum you consent to the sharing of information with our preferred insurance provider, which includes, but is not limited to, your name, address, lease status/expiration, current renter's insurance policy information, email address and telephone number(s).

6. **Subrogation Allowed**. You acknowledge that subrogation is allowed by all parties and that this Addendum supersedes any language to the contrary in the Lease. Accordingly, our commercial insurance carrier may make a claim against you for losses it pays as a result of your negligence, and your insurance carrier may make a claim against us for losses it pays as a result of our negligence. We retain the right to hold you responsible for any loss in excess of your insurance coverage.

7. **Your Insurance Coverage**. By signing this Addendum, you acknowledge that you have purchased (or agree to purchase) the insurance described above or you have agreed to participate in the insurance program. If you purchase insurance through a carrier or agency other than the preferred insurance provider, you must provide proof of insurance via the link you receive by email from donotreply.pol@assurant.com prior to taking possession of the apartment. You further acknowledge that you will keep your insurance policy in-force for the entire term of the Lease. If any material terms of your insurance policy change, you agree to promptly provide proof of the modified policy terms to greystar@assurant.com.

8. **Default.** Unless otherwise prohibited by law, and subject to any right to cure a default under the Lease, any default under the terms of this Addendum shall be deemed a material default of the Lease, and we are entitled to exercise all rights and remedies under the law. If you fail to obtain and maintain personal liability insurance as required by this Addendum, you

will be in violation of your Lease. In such event, we may send a written notice to you demanding that you cure the violation by purchasing the required insurance and providing evidence of coverage to us. If you fail to supply evidence of such insurance to us on or before the specified date set forth in your notice, we reserve the right to obtain personal liability insurance coverage on your behalf, and to charge you monthly for the amount of the insurance charges paid to the insurance company, which may be subject to change with notice, but shall not exceed the state approved rate for the insurance. The amount is currently $_____8.00_____. This is an insurance program provided to us by an insurance company we have partnered with and provides $__100000.00__ in personal liability insurance to you but **does not include any personal property coverage to protect your property from any loss or damage, including but not limited to from theft, fire or weather**. You may cancel your participation in this insurance program at any time if you purchase your own personal liability insurance policy or renter's insurance policy and provide proof of coverage to greystar@assurant.com. Upon your enrollment in the insurance program set forth in this paragraph, the insurance company will deliver you an insurance certificate evidencing and describing the coverage.

9. **Miscellaneous**.

a. Except as specifically stated in this Addendum, all other terms and conditions of the Lease shall remain unchanged.
b. The insurance required by the Lease Contract is not required by any law. Your obligation to provide insurance stems solely from the Lease Contract.
c. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control.
d. The insurance required by the Lease is not an attempt to limit our liability for our own negligence or your liability for your own negligence.
e. CAS Insurance Agency, LLC, a licensed insurance agency and affiliate of property manager, may receive compensation on policies issued by the preferred insurance provider for administrative, brokerage or marketing support. Owner may be receiving compensation or other payments from CAS Insurance Agency, LLC or one of its affiliates where permitted by law.
f. The insurance required by the Lease is not in lieu of, or in any way a component of, any security deposit required by the Lease.
g. **You understand that the personal liability insurance coverage set forth in paragraph 8 may cost more than similar insurance you can purchase on your own and will only cover you for your own liability for injury, loss or damage caused by you (or, in some cases, your occupants or guests) to others and DOES NOT INCLUDE COVERAGE FOR PERSONAL INJURY OR LOSS OR DAMAGE TO YOU OR YOUR PERSONAL PROPERTY. THE PERSONAL LIABILITY INSURANCE DESCRIBED IN PARAGRAPH 8 IS LIMITED IN SCOPE AND MAY NOT FULLY PROTECT YOUR INTERESTS.**
h. You agree that you have not received any oral representations from Owner or any representative of Owner which are inconsistent with or not contained in the Lease Contract, the addenda attached to the Lease Contract, or in the Rules and Regulations. If you have received any such oral representations, you agree that you did not rely on them to decide to enter in the Lease Contract or this Addendum.
i. You must refer to the actual insurance policy or certificate for a complete description of the coverage, as this Addendum only provides a general summary. If you have an annual renter's insurance policy and decide to switch to the insurance program offered by our preferred insurance provider, please compare the terms of coverage between the two policies, as not all policies are the same and coverage may differ.
j. By signing this Addendum, you consent to receive communications from the insurance company via email, text, or other electronic means with respect to insurance related matters. .

By signing below, you acknowledge and agree to be bound to the terms of this Addendum.

User
[All users must sign here]

_____
_____
_____
_____
_____
_____

Landlord/Property Manager

_____
Signature

_____
Date

UTILITY ADDENDUM

This Utility Addendum is incorporated into the Lease Contract (referred to in this addendum as "Lease Contract" or "Lease") dated February 27, 2026 between CPI-GREP Domain Owner, LLC

("We" and/or "we" and/or "us") and _____

("You" and/or "you") of Apt. No. _____ located at 5000 Domain Dr

(street address) in Morgantown, WV 26501
and is in addition to all terms and conditions in the Lease. This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

1. Responsibility for payment of utilities, and the method of metering or otherwise measuring the cost of the utility, will be as indicated below.

a) **Water** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☒ water bills will be billed by the service provider to us and then allocated to you based on the following formula: 5
  - ☐ If flat rate is selected, the current flat rate is $ _____ per month.
  - ☒ 3rd party billing company if applicable Conservice

b) **Sewer** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☒ sewer bills will be billed by the service provider to us and then allocated to you based on the following formula: 5
  - ☐ If flat rate is selected, the current flat rate is $ _____ per month.
  - ☒ 3rd party billing company if applicable Conservice

c) **Gas** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ gas bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

d) **Trash** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ trash bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

e) **Electric** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☒ electric bills will be billed by the service provider to us and then allocated to you based on the following formula: 10
  - ☐ If flat rate is selected, the current flat rate is $ _____ per month.
  - ☒ 3rd party billing company if applicable Conservice

f) **Stormwater** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ stormwater bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

g) **Cable TV** service to your dwelling will be paid by you either:
- ☒ directly to the utility service provider; or
- ☐ cable TV bills will be billed by the service provider to us and then allocated to you based on the following formula: _____
  - ☐ If flat rate is selected, the current flat rate is $ _____ per month.
  - ☐ 3rd party billing company if applicable _____

h) **Master Antenna** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ master antenna bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

i) **Internet** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ internet bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

j) **Pest Control** service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ pest control bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

k) (Other) N/A service to your dwelling will be paid by you either:
- ☐ directly to the utility service provider; or
- ☐ bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ☐ If flat rate is selected, the current flat rate is $ N/A per month.
  - ☐ 3rd party billing company if applicable N/A

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l) (Other) N/A service to your dwelling will be paid by you either:
- ❑ directly to the utility service provider; or
- ❑ bills will be billed by the service provider to us and then allocated to you based on the following formula: N/A
  - ❑ If flat rate is selected, the current flat rate is $ N/A per month.
  - ❑ 3rd party billing company if applicable N/A

METERING/ALLOCATION METHOD KEY
"1" - Sub-metering of all of your water/gas/electric use
"2" - Calculation of your total water use based on sub-metering of hot water
"3" - Calculation of your total water use based on sub-metering of cold water
"4" - Flat rate per month
"5" - Allocation based on the number of persons residing in your dwelling unit
"6" - Allocation based on the number of persons residing in your dwelling unit using a ratio occupancy formula
"7" - Allocation based on square footage of your dwelling unit
"8" - Allocation based on a combination of square footage of your dwelling unit and the number of persons residing in your dwelling unit
"9" - Allocation based on the number of bedrooms in your dwelling unit
"10" - Allocation based on a lawful formula not listed here
(Note: if method "10" is selected, a separate sheet will be attached describing the formula used)

2. If an allocation method is used, we or our billing company will calculate your allocated share of the utilities and services provided and all costs in accordance with state and local statutes. Under any allocation method, Resident may be paying for part of the utility usage in common areas or in other residential units as well as administrative fees. Both Resident and Owner agree that using a calculation or allocation formula as a basis for estimating total utility consumption is fair and reasonable, while recognizing that the allocation method may or may not accurately reflect actual total utility consumption for Resident. Where lawful, we may change the above methods of determining your allocated share of utilities and services and all other billing methods, in our sole discretion, and after providing written notice to you. More detailed descriptions of billing methods, calculations and allocation formulas will be provided upon request.

If a flat fee method for trash or other utility service is used, Resident and Owner agree that the charges indicated in this Agreement (as may be amended with written notice as specified above) represent a fair and reasonable amount for the service(s) provided and that the amount billed is not based on a monthly per unit cost.

3. When billed by us directly or through our billing company, you must pay utility bills within 5 days of the date when the utility bill is issued at the place indicated on your bill, or the payment will be late. If a payment is late, you will be responsible for a late fee as indicated below. The late payment of a bill or failure to pay any utility bill is a material and substantial breach of the Lease and we will exercise all remedies available under the Lease, up to and including eviction for nonpayment. To the extent there are any new account, monthly administrative, late or final bill fees, you shall pay such fees as indicated below.

New Account Fee:	$ 0.00	(not to exceed $ 0.00)
Monthly Administrative Billing Fee:	$ 6.65	(not to exceed $ 10.00)
Late Fee:	$ 0.00	(not to exceed $ 0.00)
Final Bill Fee:	$ 6.95	(not to exceed $ 10.00)

If allowed by state law, we at our sole discretion may amend these fees, with written notice to you.

4. You will be charged for the full period of time that you were living in, occupying, or responsible for payment of rent or utility charges on the dwelling. If you breach the Lease, you will be responsible for utility charges for the time period you were obliged to pay the charges under the Lease, subject to our mitigation of damages. In the event you fail to timely establish utility services, we may charge you for any utility service billed to us for your dwelling and may charge a reasonable administration fee for billing for the utility service in the amount of $ 0.00.

5. When you move out, you will receive a final bill which may be estimated based on your prior utility usage. This bill must be paid at the time you move out or it will be deducted from the security deposit.

6. We are not liable for any losses or damages you incur as a result of outages, interruptions, or fluctuations in utility services provided to the dwelling unless such loss or damage was the direct result of negligence by us or our employees. You release us from any and all such claims and waive any claims for offset or reduction of rent or diminished rental value of the dwelling due to such outages, interruptions, or fluctuations.

7. You agree not to tamper with, adjust, or disconnect any utility sub-metering system or device. Violation of this provision is a material breach of your Lease and may subject you to eviction or other remedies available to us under your Lease, this Utility Addendum and at law.

8. Where lawful, all utilities, charges and fees of any kind under this lease shall be considered additional rent, and if partial payments are accepted by the Owner, they will be allocated first to non-rent charges and to rent last.

9. You represent that all occupants that will be residing in the Unit are accurately identified in the Lease. You agree to promptly notify Owner of any change in such number of occupants.

10. You agree that you may, upon thirty (30) days prior written notice from Owner to you, begin receiving a bill for additional utilities and services, at which time such additional utilities and services shall for all purposes be included in the term Utilities.

11. This Addendum is designed for use in multiple jurisdictions, and no billing method, charge, or fee mentioned herein will be used in any jurisdiction where such use would be unlawful. If any provision of this addendum or the Lease is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this addendum or the Lease. Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control.

SAMPLE

12. The following special provisions and any addenda or written rules furnished to you at or before signing will become a part of this Utility Addendum and will supersede any conflicting provisions of this printed Utility Addendum and/or the Lease Contract.

We will remain the customer of record for the electric utility. Electric charges will be equally divided among the residents of the Apartment based on the number of days of occupancy. A monthly Administrative fee is for administration, billing, overhead and similar expenses and charges incurred by us for establishing the new account and for processing and preparing monthly billing statements. Resident also agrees to pay estimated utility overage in excess of allowance, for the last month of occupancy (or at any other time) with their last installment. If we detect or suspect your abuse or waste of any utilities paid by us, or if there is an increase in a utility's rate, we have the right to notify you of an increase in the Base Rent and after the date of such notice, you are required to pay the higher charge. All utilities may be used only for normal household purposes and must not be wasted. Residents are responsible for all water and sewer amounts that exceed a $25.00 per person allowance per month.

Resident Signature _____ Date _____

Resident Signature _____ Date _____

Resident Signature _____ Date _____

Resident Signature _____ Date _____

Resident Signature _____ Date _____

Resident Signature _____ Date _____

Management _____ Date _____

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ARBITRATION AGREEMENT

1. **DWELLING UNIT DESCRIPTION.**
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. **LEASE CONTRACT DESCRIPTION.**
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC
_____
_____
_____
_____
_____
Residents *(list all residents)*:
_____
_____
_____
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3. **ARBITRATION CLAUSE.** We agree that any and all claims between us and/or arising from or relating to this Lease Contract shall be subject to binding arbitration under the Federal Arbitration Act ("FAA"). This includes claims based on contract, tort, equity, statute, or otherwise, as well as claims regarding the scope and enforceability of this provision. This includes all claims by or against You, other Residents, Owner, and Owner's Agents. However, at the election of any party, a court of competent jurisdiction may adjudicate small claims, any request for injunctive relief, and/or any claims for eviction or recovery of possession of the premises, but all other claims will be decided by arbitration under this Lease Contract.

   A single Arbitrator shall preside over any arbitration under this Lease Contract and shall render a final, binding decision.

   You may choose the American Arbitration Association ("AAA"), JAMS, or other similar arbitration service provider acceptable to us to administer the arbitration. Consistent with the FAA, the Arbitrator shall determine the relevant AAA, JAMS, or other arbitration rules. For AAA and JAMS, these rules can be found at www.adr.org and www.jamsadr.com.

   Unless otherwise agreed by the parties, the arbitration shall take place in the county where the relevant Apartment Community is located.

   Each party to the arbitration shall pay his, her, or its own costs of arbitration. If you cannot afford your arbitration costs, you may apply for a waiver under the relevant rules.

4. **CLASS ACTION WAIVER.** The parties waive any right to bring representative claims on behalf of a class of individuals (the "Class Action Waiver"). This Class Action Waiver means that You waive your ability to participate either as a class representative or member of any class action claim(s) against Owner or Owner's Agents ("us"). While You are not waiving any right(s) to pursue claims against us related to Your tenancy, You hereby agree to file any claim(s) against us in Your individual capacity only, and You may not be a class action plaintiff, class representative, or member in any purported class action lawsuit ("Class Action"). Accordingly, **You expressly waive any right and/or ability to bring, represent, join, or otherwise maintain a Class Action or similar proceeding against us in any forum. Any claim that all or any part of the Class Action Waiver is unenforceable, unconscionable, void, or voidable shall be determined by the arbitration service chosen by the parties.**

   YOU UNDERSTAND THAT, WITHOUT THIS ARBITRATION PROVISION AND ITS CLASS ACTION WAIVER, YOU MAY HAVE POSSESSED THE ABILITY TO BE A PARTY TO A CLASS ACTION LAWSUIT. BY SIGNING THIS AGREEMENT, YOU UNDERSTAND AND CHOOSE TO WAIVE SUCH ABILITY AND CHOOSE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY.

   This arbitration provision, and its Class Action Waiver, shall survive the termination or expiration of this Lease Contract.

5. **SEVERABILITY.** This arbitration provision may be severed or modified if necessary, to render it enforceable.

6. **OPT-OUT REQUIREMENT.** You may opt-out of this arbitration provision by providing written notice to the Owner within thirty days of signing this Agreement.

7. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:
_____
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Resident's Acknowledgment | **Date of Signing**

_____ | _____
_____ | _____
_____ | _____
_____ | _____
_____ | _____
_____ | _____

Landlord (or Landlord Agent) Acknowledgment | **Date of Signing**

_____ | _____

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SERVICEMEMBERS CIVIL RELIEF ACT ADDENDUM

This Servicemembers Civil Relief Act Addendum ("SCRA Addendum") is incorporated into the Residential Lease (the "Lease") dated 02/27/2026 between CPI-GREP Domain Owner, LLC _____ _____ (the "Owner") and _____ _____ _____ (the "Resident",) for Unit No. _____ located at 5000 Domain Dr _____ (street address) in Morgantown, WV 26501 (city, state, zip code). Where the terms or conditions found in this Addendum vary from the Lease, this Addendum shall govern.

1. **SUPREMACY OF SCRA:** Notwithstanding any provision in the Lease to the contrary, the terms and protections of the federal Servicemembers Civil Relief Act (SCRA) 50 U.S.C. § 3955 ("SCRA") shall govern and prevail in the event of any conflict or inconsistency with the Lease. All terms of the Lease shall be interpreted in a manner that is consistent with and does not diminish the rights and protections afforded to Servicemembers under the SCRA.

2. **EARLY LEASE TERMINATION RIGHTS:**

a. **Right to Terminate:**

A Servicemember may terminate this Lease upon receipt of qualifying military orders, which may include: (i) enlistment documents; (ii) orders to active duty; (iii) orders to deploy for at least 90 days; (iv) permanent change of station orders (including for separation or retirement); (v) a stop movement order issued in response to a local, national, or global emergency, effective for an indefinite period or for a period of not less than 30 days, which prevents the servicemember or servicemember's dependents from occupying the unit; or (vi) a notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military status.

Early termination is also granted in the following circumstances: (i) up to one year after the servicemember's death; (ii) the servicemember, or (in the case of a servicemember's lack of mental capacity to manage their own affairs) spouse or dependent, may terminate a servicemember's lease up to one year after the servicemember's catastrophic injury or illness

b. **Notice Requirement:** Termination of this Lease under this Section shall be made by delivery of written notice, including the military orders, pursuant to the Lease.

c. **Effective Date of Termination:** Termination is effective **30 days after the first date on which the next rental payment is due.**

d. **No Early Termination Charges:** Landlord shall not impose any early termination charges – including penalties, liquidated damages or repayment of any rent concessions or discounts on any Servicemember who lawfully terminates the Lease under the SCRA.

e. **Prorated Rent and Refunds:** Any rent unpaid for the period preceding the effective date of the Lease termination shall be paid on a prorated basis. Any rents or lease amounts paid in advance for a period after the effective date of the Lease termination shall be refunded to the Servicemember

f. **Joint Leases:** A Servicemember's termination of this Lease pursuant to this Addendum shall terminate any obligation **a dependent** of the Servicemember may have under the Lease.

3. **NO DIMINUTION OF RIGHTS:** This Addendum is not intended to diminish or restrict any rights or protections a Servicemember may have under the SCRA, or any other federal, state, or local law. To the extent any provision of this Lease conflicts with or provides fewer rights than the SCRA or state law, the SCRA or state law shall control.

If Resident has questions or concerns regarding Resident's SCRA Rights, Resident may contact the Owner's agent at:

PHONE: +1 888 280 4813 OR

EMAIL: SCRA@greystar.com

Except as set forth in this SCRA Addendum, all other terms and conditions of the Lease Agreement remain unchanged and shall continue in full force and effect.

By signing below, I affirm that I have read and understand the terms of this SCRA Addendum to the Lease.

Resident(s)	Date Signed
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Owner's Representative	Date Signed
_____	_____

ADDENDUM REGARDING MEDICAL MARIJUANA USE
and
LANDLORD'S COMMITMENT TO ENFORCEMENT OF CRIME/DRUG FREE ADDENDUM

Becomes part of Lease Contract

1. DWELLING DESCRIPTION.
5000 Domain Dr

(street address), _____ *(unit no. if applicable)* in Morgantown *(city),* West Virginia, 26501 *(zip code).*

2. LEASE CONTRACT DESCRIPTION.
Lease Contract date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents):*

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. The West Virginia Medical Cannabis Act (2017) permits the limited use of medical marijuana in specific and limited circumstances. However, this is not the case under federal law. Under federal law, specifically the Controlled Substances Act (CSA), marijuana is still categorized as a Schedule I substance. This means that under federal law, the manufacture, distribution, or possession of marijuana is strictly prohibited. Because the U.S. Department of Housing and Urban Development is controlled by the federal government, it agrees that the use of marijuana, whether prescribed for medical reasons or not, is a criminal offense and will not be protected under the fair housing laws. Therefore, management is not required to accommodate the use of marijuana by a tenant who is a current medical marijuana user. Disabled tenants who are registered medical marijuana users, however, should not feel discouraged to request reasonable accommodations if the need arises.

4. The Premises listed above follows and complies with federal law regarding marijuana use and is, and will continue to be, a drug free community. Possession, use, manufacture or sale of any illegal substance, including marijuana, or any use of marijuana by the tenant and/or guests will result in immediate termination. If you have any questions or concerns about this policy, please speak to management.

5. By signing below, the resident acknowledges his or her understanding of the terms and conditions as stated above, and his or her agreement to comply with those terms and conditions.

6. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(sign here)

Date of Signing Addendum

Owner or Owner's Representative
(signs here)

Date of Signing Addendum

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BED BUG ADDENDUM

Date: February 27, 2026
(when this Addendum is filled out)

Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize the potential for any bed bugs in your dwelling or surrounding dwellings. This addendum contains important information that outlines your responsibility and potential liability with regard to bed bugs.

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC
_____
_____
_____
_____

Residents *(list all residents)*:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. PURPOSE. This Addendum modifies the Lease Contract and addresses situations related to bed bugs *(cimex lectularius)* which may be discovered infesting the dwelling or personal property in the dwelling. You understand that we relied on your representations to us in this Addendum.

4. INSPECTION AND INFESTATIONS. BY SIGNING THIS ADDENDUM, YOU REPRESENT THAT:

- YOU HAVE INSPECTED THE DWELLING PRIOR TO MOVING IN, OR PRIOR TO SIGNING THIS ADDENDUM, AND YOU DID NOT FIND ANY EVIDENCE OF BED BUGS OR A BED BUG INFESTATION;

OR

- YOU WILL INSPECT THE DWELLING WITHIN 48 HOURS AFTER MOVING IN, OR WITHIN 48 HOURS AFTER SIGNING THIS ADDENDUM AND WILL NOTIFY US OF ANY BED BUGS OR BED BUG INFESTATIONS.

You agree that you have read the information provided in this Addendum and that you are not aware of any infestation or presence of bed bugs in your current or previous dwellings, furniture, clothing, personal property, or possessions. You also acknowledge that you have fully disclosed to us any previous bed bug infestations or bed bug issues that you have experienced.

If you disclose to us a previous experience with bed bug infestations or other bed bug related issues, we can review documentation of the previous treatment(s) and inspect your personal property and possession to confirm the absence of bed bugs.

5. ACCESS FOR INSPECTION AND PEST TREATMENT. Unless otherwise prohibited by law, you must allow us and our pest control agents access to the dwelling at reasonable times to inspect for or treat bed bugs as allowed by law. You and your family members, occupants, guests, and invitees must cooperate and will not interfere with inspections or treatments. We have the right to select any licensed pest control professional to treat the dwelling and building. We can select the method of treating the dwelling, building and common areas for bed bugs. We can also inspect and treat adjacent or neighboring dwellings to the infestation even if those dwellings are not the source or cause of the known infestation. Unless otherwise prohibited by law, you are responsible for and must, at your own expense, have your own personal property, furniture, clothing and possessions treated according to accepted treatment methods established by a licensed pest control firm that we approve. You must do so as close as possible to the time we treated the dwelling. If you fail to do so, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract. You agree not to treat the dwelling for a bed bug infestation on your own.

6. NOTIFICATION. You must promptly notify us in writing:

- of any known or suspected bed bug infestation or presence in the dwelling, or in any of your clothing, furniture or personal property.
- of any recurring or unexplained bites, stings, irritations, or sores of the skin or body which you believe is caused by bed bugs, or by any condition or pest you believe is in the dwelling.
- if you discover any condition or evidence that might indicate the presence or infestation of bed bugs, or of any confirmation of bed bug presence by a licensed pest control professional or other authoritative source.

7. COOPERATION. If we confirm the presence or infestation of bed bugs, you must cooperate and coordinate with us and our pest control agents to treat and eliminate the bed bugs. You must follow all directions from us or our agents to clean and treat the dwelling and building that are infested. You must remove or destroy personal property that cannot be treated or cleaned as close as possible to the time we treated the dwelling. Any items you remove from the dwelling must be disposed of off-site and not in the property's trash receptacles. If we confirm the presence or infestation of bed bugs in your dwelling, we have the right to require you to temporarily vacate the dwelling and remove all furniture, clothing and personal belongings in order for us to perform pest control services. If you fail to cooperate with us, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract.

8. RESPONSIBILITIES. We have an obligation to deliver the dwelling to you in a habitable condition and to maintain it in that condition. You, your family members and your guests also have an obligation to exercise reasonable care in maintaining the dwelling. If through your fault or lack of reasonable care, bed bugs infest the dwelling, you may be required to pay all reasonable costs of cleaning and pest control treatments incurred by us to treat your dwelling unit for bed bugs. If we confirm the presence or infestation of bed bugs after you vacate your dwelling, you may be responsible for the cost of cleaning and pest control treatments. If we must move other residents in order to treat adjoining or neighboring dwellings to your dwelling unit, you may be liable for payment of any lost rental income and other expenses incurred by us to relocate the neighboring residents and to clean and perform pest control treatments to eradicate infestations in other dwellings. If you fail to pay us for any

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costs you are liable for, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract, and obtain immediate possession of the dwelling. If you fail to move out after your right of occupancy has been terminated, you will be liable for holdover rent under the Lease Contract.

9. TRANSFERS. If we allow you to transfer to another dwelling in the community because of the presence of bed bugs, you must have your personal property and possessions treated according to accepted treatment methods or procedures established by a licensed pest control professional. You must provide proof of such cleaning and treatment to our satisfaction.

10. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

You are legally bound by this document. Please read it carefully.

Resident or Residents
(All residents must sign)

Owner or Owner's Representative
(Signs below)

Date of Signing Addendum

You are entitled to receive an original of this Addendum after it is fully signed. Keep it in a safe place.

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Bed bugs, with a typical lifespan of 6 to 12 months, are wingless, flat, broadly oval-shaped insects. Capable of reaching the size of an apple seed at full growth, bed bugs are distinguishable by their reddish-brown color, although after feeding on the blood of humans and warm-blooded animals—their sole food source—the bugs assume a distinctly blood-red hue until digestion is complete.

Bed bugs don't discriminate

Bed bugs' increased presence across the United States in recent decades can be attributed largely to a surge in international travel and trade. It's no surprise then that bed bugs have been found time and time again to have taken up residence in some of the fanciest hotels and apartment buildings in some of the nation's most expensive neighborhoods.

Nonetheless, false claims that associate bed bugs presence with poor hygiene and uncleanliness have caused rental housing residents, out of shame, to avoid notifying owners of their presence. This serves only to enable the spread of bed bugs.

While bed bugs are, by their very nature, more attracted to clutter, they're certainly not discouraged by cleanliness.

Bottom line: bed bugs know no social and economic bounds; claims to the contrary are false.

Bed bugs don't transmit disease

There exists no scientific evidence that bed bugs transmit disease. In fact, federal agencies tasked with addressing pest of public health concern, namely the U.S. Environmental Protection Agency and the Centers for Disease Control and Prevention, have refused to elevate bed bugs to the threat level posed by disease transmitting pests. Again, claims associating bed bugs with disease are false.

Identifying bed bugs

Bed bugs can often be found in, around and between:

- Bedding
- Bed frames
- Mattress seams
- Upholstered furniture, especially under cushions and along seams
- Around, behind and under wood furniture, especially along areas where drawers slide
- Curtains and draperies
- Along window and door frames
- Ceiling and wall junctions
- Crown moldings
- Behind and around wall hangings and loose wallpaper
- Between carpeting and walls (carpet can be pulled away from the wall and tack strip)
- Cracks and crevices in walls and floors
- Inside electronic devices, such as smoke and carbon monoxide detectors
- Because bed bugs leave some persons with itchy welts strikingly similar to those caused by fleas and mosquitoes, the origination of such markings often go misdiagnosed. However, welts caused by bed bugs often times appear in succession and on exposed areas of skin, such as the face, neck and arms. In some cases, an individual may not experience any visible reaction resulting from direct contact with bed bugs.
- While bed bugs typically prefer to act at night, they often do not succeed in returning to their hiding spots without leaving traces of their presence through fecal markings of a red to dark brown color, visible on or near beds. Blood stains tend also to appear when the bugs have been squashed, usually by an unsuspecting host in their sleep. And, because they shed, it's not uncommon for skin casts to be left behind in areas typically frequented by bed bugs.

Preventing bed bug encounters when traveling

Because humans serve as bed bugs' main mode of transportation, it is extremely important to be mindful of bed bugs when away from home. Experts agree that the spread of bed bugs across all regions of the United States is largely attributed to an increase in international travel and trade. Travelers are therefore encouraged to take a few minutes upon arriving to their temporary destination to thoroughly inspect their accommodations, so as to ensure that any uninvited guests are detected before the decision is made to unpack.

Because bed bugs can easily travel from one room to another, it is also recommended that travelers thoroughly inspect their luggage and belongings for bed bugs before departing for home.

Bed bug do's and don'ts

- **Do not bring used furniture from unknown sources into your dwelling.** Countless bed bug infestations have stemmed directly from the introduction into a resident's unit of second-hand and abandoned furniture. Unless the determination can be made with absolute certainty that a piece of second-hand furniture is bed bug-free, residents should assume that the reason a seemingly nice looking leather couch, for example, is sitting curbside, waiting to be hauled off to the landfill, may very well be due to the fact that it's teeming with bed bugs.
- **Do address bed bug sightings immediately.**˜Rental housing residents who suspect the presence of bed bugs in their unit must immediately notify the owner.
- **Do not attempt to treat bed bug infestations.** Under no circumstance should you attempt to eradicate bed bugs. Health hazards associated with the misapplication of traditional and non-traditional, chemical-based insecticides and pesticides poses too great a risk to you and your neighbors.
- **Do comply with eradication protocol.** If the determination is made that your unit is indeed playing host to bed bugs, you must comply with the bed bug eradication protocol set forth by both your owner and their designated pest management company.

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CRIME/DRUG FREE HOUSING ADDENDUM

Becomes part of Lease Contract

1. DWELLING DESCRIPTION.
5000 Domain Dr

(street address), _____ *(unit no. if applicable)* in Morgantown *(city)*, West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. ADDENDUM APPLICABILITY. In the event any provision in this Addendum is inconsistent with any provision(s) contained in other portions of, or attachments to, the above-mentioned Lease Contract, then the provisions of this Addendum shall control. For purposes of this Addendum, the term "Premises" shall include the dwelling, all common areas, all other dwellings on the property or any common areas or other dwellings on or about other property owned by or managed by the Owner. The parties hereby amend and supplement the Lease Contract as follows:

4. CRIME/DRUG FREE HOUSING. Resident, members of the Resident's household, Resident's guests, and all other persons affiliated with the Resident:

A. Shall not engage in any illegal or criminal activity on or about the premises. The phrase, "illegal or criminal activity" shall include, but is not limited to, the following:
   1. Engaging in any act intended to facilitate any type of criminal activity.
   2. Permitting the Premises to be used for, or facilitating any type of criminal activity or drug related activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.
   3. The unlawful manufacturing, selling, using, storing, keeping, purchasing or giving of an illegal or controlled substance or paraphernalia as defined in city, county, state or federal laws, including but not limited to the State of West Virginia and/or the Federal Controlled Substances Act.
   4. Violation of any federal drug laws governing the use, possession, sale, manufacturing and distribution of marijuana, regardless of state or local laws. (So long as the use, possession, sale, manufacturing and distribution of marijuana remains a violation of federal law, violation of any such federal law shall constitute a material violation of this rental agreement.)
   5. Engaging in, or allowing, any behavior that is associated with drug activity, including but not limited to having excessive vehicle or foot traffic associated with Resident's dwelling.
   6. Any breach of the Lease Contract that otherwise jeopardizes the health, safety, and welfare of the Owner, Owner's agents, or other Residents, or involving imminent, actual or substantial property damage.
   7. Engaging in or committing any act that would be a violation of the Owner's screening criteria for criminal conduct or which would have provided Owner with a basis for denying Resident's application due to criminal conduct.
   8. Engaging in any activity that constitutes waste, nuisance, or unlawful use.

B. AGREE THAT ANY VIOLATION OF THE ABOVE PROVISIONS CONSTITUTES A MATERIAL VIOLATION OF THE PARTIES' LEASE CONTRACT AND GOOD CAUSE FOR TERMINATION OF TENANCY. A single violation of any of the provisions of this Addendum shall be deemed a serious violation, and a material default, of the parties' Lease Contract. It is understood that a single violation shall be good cause for termination of the Lease Contract. Notwithstanding the foregoing comments, Owner may terminate Resident's tenancy for any lawful reason, and by any lawful method, with or without good cause.

5. CRIMINAL CONVICTION NOT REQUIRED. Unless otherwise provided by law, proof of violation of any criminal law shall not require a criminal conviction.

6. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(sign here)

Date of Signing Addendum

Owner or Owner's Representative
(signs here)

Date of Signing Addendum

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INVENTORY AND CONDITION FORM

Becomes part of Lease Contract

DWELLING DESCRIPTION. 5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown *(city),*
West Virginia, 26501 *(zip code).*

LEASE CONTRACT DESCRIPTION. Lease Contract date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

Within 48 hours after move-in, you must note on this form all defects, damage, or safety or pest-related concerns and return it to our representative. Otherwise, everything will be considered to be in a clean, safe, and good working condition. Please mark through items listed below or put "none" if the items don't exist. This form protects both you (the resident) and us (the owner). We'll use it in determining what should and should not be considered your responsibility upon move-out. You are entitled to a copy of this form after it is filled out and signed by you and us.

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

Resident's Name: _____
Home Phone: (_____) _____ Work Phone: (_____) _____

❑ Move-In or ❑ Move-Out Condition *(Check one)*

Living Room
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____
Lamps, Bulbs _____
Water Stains on Walls or Ceilings _____
Other _____

Kitchen
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Cabinets, Drawers, Handles _____
Countertops _____
Stove/Oven, Trays, Pans, Shelves _____
Vent Hood _____
Refrigerator, Trays, Shelves _____
Refrigerator Light, Crisper _____
Dishwasher, Dispensers, Racks _____
Sink/Disposal _____
Microwave _____
Plumbing Leaks or Water Stains on Walls or Ceilings _____
_____
Other _____

General Items
Thermostat _____
Cable TV or Master Antenna _____
A/C Filter _____
Washer/Dryer _____
Garage Door _____
Ceiling Fans _____
Exterior Doors, Screens/Screen Doors, Doorbell _____
_____
Fireplace _____
Other _____

Dining Room
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____

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Water Stains on Walls or Ceilings _____
Other _____

Halls
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____
Water Stains on Walls or Ceilings _____
Other _____

Exterior *(if applicable)*
Patio/Yard _____
Fences/Gates _____
Faucets _____
Balconies _____
Other _____

Bedroom *(describe which one):* _____
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____
Water Stains on Walls or Ceilings _____
Other _____

Bedroom *(describe which one):* _____
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____
Water Stains on Walls or Ceilings _____
Other _____

Bath *(describe which one):* _____
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Exhaust Fan/Heater _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Sink, Faucet, Handles, Stopper _____
Countertops _____
Mirror _____
Cabinets, Drawers, Handles _____
Toilet, Paper Holder _____
Bathtub, Enclosure, Stopper _____
Shower, Doors, Rods _____
Tile _____
Plumbing Leaks or Water Stains on Walls or Ceilings _____
_____
Other _____

Half Bath
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Exhaust Fan/Heater _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Sink, Faucet, Handles, Stopper _____
Countertops _____
Mirror _____
Cabinets, Drawers, Handles _____
Toilet, Paper Holder _____
Tile _____
Plumbing Leaks or Water Stains on Walls or Ceilings _____
_____
Other _____

Bedroom *(describe which one):* _____
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Closets, Rods, Shelves _____
Closet Lights, Fixtures _____
Water Stains on Walls or Ceilings _____
Other _____

Bath *(describe which one):* _____
Walls _____
_____
Wallpaper _____
Plugs, Switches, A/C Vents _____
Woodwork/Baseboards _____
Ceiling _____
Light Fixtures, Bulbs _____
Exhaust Fan/Heater _____
Floor/Carpet _____
_____
Doors, Stops, Locks _____
Windows, Latches, Screens _____
Window Coverings _____
Sink, Faucet, Handles, Stopper _____
Countertops _____
Mirror _____
Cabinets, Drawers, Handles _____
Toilet, Paper Holder _____
Bathtub, Enclosure, Stopper _____
Shower, Doors, Rods _____
Tile _____
Plumbing Leaks or Water Stains on Walls or Ceilings _____
_____
Other _____

Safety-Related Items *(Put "none" if item does not exist)*
Door Knob Locks _____
Keyed Deadbolt Locks _____
Keyless Deadbolts _____

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Keyless Bolting Devices _____
Sliding Door Latches _____
Sliding Door Security Bars _____
Sliding Door Pin Locks _____
Doorviewers _____
Window Latches _____
Porch and Patio Lights _____
Smoke Detectors (push button to test) _____
Alarm System _____
Fire Extinguishers (look at charge level-BUT DON'T TEST!) _____
Garage Door Opener _____
Gate Access Card(s) _____
Other _____

Date of Move-In: _____

or

Date of Move-Out: _____

SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Acknowledgment. You agree you will complete and submit this form in accordance with this Lease and our Policies. You acknowledge you will inspect and test all safety-related items in the dwelling, including smoke alarms and any other detector(s), and confirm that they are working, except as noted on your completed Inventory and Condition Form. All items will be considered to be in good and working condition unless otherwise noted. You acknowledge you will receive written operating instructions on the alarm system and gate access entry systems (if there are any). You acknowledge that you will inspect the dwelling and confirm no signs of bed bugs or other pests are present, or, if bugs are present, that you will promptly report any bed bug or pest issues on this Inventory and Condition Form and through a written work order or other written repair request. You agree that this returned completed Inventory and Condition Form accurately reflects the condition of the dwelling for purposes of determining any refund of deposit due to you when you move out. You acknowledge that if you do not return the form within 48 hours after move-in, we will consider the dwelling to be clean, safe, free of pest or insect infestations, and in good working condition for purposes of determining any refund of deposit due to you at move-out.

In signing below, you accept this inventory as part of the Lease Contract and agree that it accurately reflects the condition of the premises for purposes of determining any refund due to you when you move out.

Resident or Resident's Agent: _____ **Date of Signing** _____

Resident or Resident's Agent: _____ **Date of Signing** _____

Resident or Resident's Agent: _____ **Date of Signing** _____

Resident or Resident's Agent: _____ **Date of Signing** _____

Resident or Resident's Agent: _____ **Date of Signing** _____

Resident or Resident's Agent: _____ **Date of Signing** _____

Owner or Owner's Representative: _____ **Date of Signing** _____

SAMPLE

MOLD INFORMATION AND PREVENTION ADDENDUM

Becomes part of Lease Contract

Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize any mold growth in your dwelling. That is why this addendum contains important information for you, and responsibilities for both you and us.

1. DWELLING DESCRIPTION.

5000 Domain Dr

(street address), _____ *(unit no. if applicable)* in Morgantown *(city)*, West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: February 27, 2026

Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. ABOUT MOLD. Mold is found virtually everywhere in our environment—both indoors and outdoors and in both new and old structures. Molds are naturally occurring microscopic organisms which reproduce by spores and have existed practically from the beginning of time. All of us have lived with mold spores all our lives. Without molds we would all be struggling with large amounts of dead organic matter.

Mold breaks down organic matter in the environment and uses the end product for its food. Mold spores (like plant pollen) spread through the air and are commonly transported by shoes, clothing and other materials. When excess moisture is present inside a dwelling, mold can grow. There is conflicting scientific evidence as to what constitutes a sufficient accumulation of mold which could lead to adverse effects on health. Nonetheless, appropriate precautions need to be taken.

4. PREVENTING MOLD BEGINS WITH YOU. In order to minimize the potential for mold growth in your dwelling, you must do the following:

- Keep your dwelling clean—particularly the kitchen, the bathroom(s), carpets and floors. Regular vacuuming, mopping and using a household cleaner to clean hard surfaces is important to remove the household dirt and debris that harbor mold or food for mold. Immediately throw away moldy food.
- Remove visible moisture accumulation on windows, walls, ceilings, floors and other surfaces as soon as reasonably possible. Look for leaks in washing machine hoses and discharge lines—especially if the leak is large enough for water to infiltrate nearby walls. Turn on any exhaust fans in the bathroom and kitchen *before* you start showering or cooking with open pots. When showering, be sure to keep the shower curtain *inside* the tub or fully close the shower doors. Also, the experts recommend that after taking a shower or bath, you: (1) wipe moisture off of shower walls, shower doors, the bathtub and the bathroom floor; (2) leave the bathroom door open until all moisture on the mirrors and bathroom walls and tile surfaces has dissipated; and (3) hang up your towels and bath mats so they will completely dry out.
- Promptly notify us in writing about any air conditioning or heating system problems you discover. Follow our rules, if any, regarding replacement of air filters. Also, it is recommended that you periodically open windows and doors on days when the outdoor weather is dry (i.e., humidity is below 50 percent) to help humid areas of your dwelling dry out. Be certain to close any windows when you leave the dwelling at night or when you go to bed for the night as a safety measure.
- Promptly notify us in writing about any signs of water leaks, water infiltration or mold. We will respond in accordance with state law and the Lease Contract to repair or remedy the situation, as necessary.
- Keep the thermostat set to automatically circulate air in the event temperatures rise to or above 80 degrees Fahrenheit.

5. IN ORDER TO AVOID MOLD GROWTH, it is important to prevent excessive moisture buildup in your dwelling. Failure to promptly pay attention to leaks and moisture that might accumulate on dwelling surfaces or that might get inside walls or ceilings can encourage mold growth. Prolonged moisture can result from a wide variety of sources, such as:

- rainwater leaking from roofs, windows, doors and outside walls, as well as flood waters rising above floor level;
- overflows from showers, bathtubs, toilets, lavatories, sinks, washing machines, dehumidifiers, refrigerator or A/C drip pans or clogged up A/C condensation lines;
- leaks from plumbing lines or fixtures, and leaks into walls from bad or missing grouting/caulking around showers, tubs or sinks;
- washing machine hose leaks, plant watering overflows, pet urine, cooking spills, beverage spills and steam from excessive open-pot cooking;
- leaks from clothes dryer discharge vents (which can put lots of moisture into the air); and
- insufficient drying of carpets, carpet pads, shower walls and bathroom floors.

6. IF SMALL AREAS OF MOLD HAVE ALREADY OCCURRED ON *NON-POROUS* SURFACES (such as ceramic tile, formica, vinyl flooring, metal, wood or plastic), the federal Environmental Protection Agency (EPA) recommends that you first clean the areas with soap (or detergent) and water, let the surface dry, and then within 24 hours apply a pre-mixed, spray-on-type household biocide, such as Lysol Disinfectant®, Pine-Sol Disinfectant® (original pine-scented), Tilex Mildew Remover® or Clorox Cleanup®. (Note: Only a few of the common household cleaners will actually kill mold). Tilex® and Clorox® contain bleach which can discolor or stain. **Be sure to follow the instructions on the container.** Applying biocides without first cleaning away the dirt and oils from the surface is like painting over old paint without first cleaning and preparing the surface.

Always clean and apply a biocide to an area 5 or 6 times larger than any visible mold because mold may be adjacent in quantities not yet visible to the naked eye. A vacuum cleaner with a high-efficiency particulate air (HEPA) filter can be

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used to help remove non-visible mold products from *porous* items, such as fibers in sofas, chairs, drapes and carpets—provided the fibers are completely dry. Machine washing or dry cleaning will remove mold from clothes.

7. **DO NOT CLEAN OR APPLY BIOCIDES TO:** (1) visible mold on *porous surfaces*, such as sheetrock walls or ceilings, or (2) *large areas* of visible mold on *non-porous* surfaces. Instead, notify us in writing, and we will take appropriate action.

8. **COMPLIANCE.** Complying with this addendum will help prevent mold growth in your dwelling, and both you and we will be able to respond correctly if problems develop that could lead to mold growth. If you have questions regarding this addendum, please contact us at the management office or at the phone number shown in your Lease Contract.

   If you fail to comply with this Addendum, you can be held responsible for property damage to the dwelling and any health problems that may result. We can't fix problems in your dwelling unless we know about them.

9. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(Signs here)

Date of Lease Contract

February 27, 2026

SAMPLE

West Virginia/National Apartment Association Official Form, May 2023
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NO-SMOKING ADDENDUM

Date: February 27, 2026
(when this Addendum is filled out)

All use of any tobacco product involving smoking, burning, or combustion of tobacco is prohibited in any portion of the community. You are entitled to receive an original of this No-Smoking Addendum after it is fully signed. Keep it in a safe place.

1. DWELLING DESCRIPTION.
5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. DEFINITION OF SMOKING. Smoking refers to any use or possession of a cigar, cigarette, e-cigarette, hookah, vaporizer, or pipe containing tobacco or a tobacco product while that tobacco or tobacco product is burning, lighted, vaporized, or ignited, regardless of whether the person using or possessing the product is inhaling or exhaling the smoke from such product. The term tobacco includes, but is not limited to any form, compound, or synthesis of the plant of the genus Nicotiana or the species N. tabacum which is cultivated for its leaves to be used in cigarettes, cigars, e-cigarettes, hookahs, vaporizers, or pipes. Smoking also refers to use or possession of burning, lighted, vaporized, or ignited non-tobacco products if they are noxious, offensive, unsafe, unhealthy, or irritating to other persons.

4. SMOKING ANYWHERE INSIDE BUILDINGS OF THE COMMUNITY IS STRICTLY PROHIBITED. All forms and use of burning, lighted, vaporized, or ignited tobacco products and smoking of tobacco products inside any dwelling, building, or interior of any portion of the community is strictly prohibited. Any violation of the no-smoking policy is a material and substantial violation of this Addendum and the Lease Contract.

The prohibition on use of any burning, lighted, vaporized, or ignited tobacco products or smoking of any tobacco products extends to all residents, their occupants, guests, invitees and all others who are present on or in any portion of the community. The no-smoking policy and rules extend to, but are not limited to, the management and leasing offices, building interiors and hallways, building common areas, dwellings, club house, exercise or spa facility, tennis courts, all interior areas of the community, commercial shops, businesses, and spaces, work areas, and all other spaces whether in the interior of the community or in the enclosed spaces on the surrounding community grounds. Smoking of non-tobacco products which are harmful to the health, safety, and welfare of other residents inside any dwelling or building is also prohibited by this Addendum and other provisions of the Lease Contract.

5. SMOKING OUTSIDE BUILDINGS OF THE COMMUNITY. Smoking is permitted only in specially designated areas outside the buildings of the community. Smoking must be at least 100 feet from the buildings in the community, including administrative office buildings. If the previous field is not completed, smoking is only permitted at least 25 feet from the buildings in the community, including administrative office buildings. The smoking-permissible areas are marked by signage.

Smoking on balconies, patios, and limited common areas attached to or outside of your dwelling ☐ is ☒ is not permitted.

The following outside areas of the community may be used for smoking: _____

Even though smoking may be permitted in certain limited outside areas, we reserve the right to direct that you and your occupants, family, guests, and invitees cease and desist from smoking in those areas if smoke is entering the dwellings or buildings or if it is interfering with the health, safety, or welfare or disturbing the quiet enjoyment, or business operations of us, other residents, or guests.

6. YOUR RESPONSIBILITY FOR DAMAGES AND CLEANING. You are responsible for payment of all costs and damages to your dwelling, other residents' dwellings, or any other portion of the community for repair, replacement, or cleaning due to smoking or smoke related damage caused by you or your occupants, family, guests, or invitees, regardless of whether such use was a violation of this Addendum. Any costs or damages we incur related to repairs, replacement, and cleaning due to your smoking or due to your violation of the no-smoking provisions of the Lease Contract are in excess of normal wear and tear. Smoke related damage, including but not limited to, the smell of tobacco smoke which permeates sheetrock, carpeting, wood, insulation, or other components of the dwelling or building is in excess of normal wear and tear in our smoke free community.

7. YOUR RESPONSIBILITY FOR LOSS OF RENTAL INCOME AND ECONOMIC DAMAGES REGARDING OTHER RESIDENTS. You are responsible for payment of all lost rental income or other economic and financial damages or loss to us due to smoking or smoke related damage caused by you or your occupants, family, guests, or invitees which results in or causes other residents to vacate their dwellings, results in disruption of other residents' quiet enjoyment, or adversely affects other residents' or occupants' health, safety, or welfare.

8. LEASE CONTRACT TERMINATION FOR VIOLATION OF THIS ADDENDUM. We have the right to terminate your Lease Contract or right of occupancy of the dwelling for any violation of this No-Smoking Addendum. Violation of the no-smoking provisions is a material and substantial default or violation of the Lease Contract. Despite the termination of the Lease Contract or your occupancy, you will remain liable for rent through the end of the Lease Contract term or the date on which the dwelling is re-rented to a new occupant, whichever comes first. Therefore, you may be responsible for payment of rent after you vacate the leased premises even though you are no longer living in the dwelling.

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9. **EXTENT OF YOUR LIABILITY FOR LOSSES DUE TO SMOKING.** Your responsibility for damages, cleaning, loss of rental income, and loss of other economic damages under this No-Smoking Addendum are in addition to, and not in lieu of, your responsibility for any other damages or loss under the Lease Contract or any other addendum.

10. **YOUR RESPONSIBILITY FOR CONDUCT OF OCCUPANTS, FAMILY MEMBERS, AND GUESTS.** You are responsible for communicating this community's no-smoking policy and for ensuring compliance with this Addendum by your occupants, family, guests, and invitees.

11. **THERE IS NO WARRANTY OF A SMOKE FREE ENVIRONMENT.** Although we prohibit smoking in all interior parts of the community, there is no warranty or guaranty of any kind that your dwelling or the community is smoke free. Smoking in certain limited outside areas is allowed as provided above. Enforcement of our no-smoking policy is a joint responsibility which requires your cooperation in reporting incidents or suspected violations of smoking. You must report violations of our no-smoking policy before we are obligated to investigate and act, and you must thereafter cooperate with us in prosecution of such violations.

    This is an important and binding legal document. By signing this Addendum you are agreeing to follow our no-smoking policy and you are acknowledging that a violation could lead to termination of your Lease Contract or right to continue living in the dwelling. If you or someone in your household is a smoker, you should carefully consider whether you will be able to abide by the terms of this Addendum.

12. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(Sign here)

SAMPLE

LEASE ADDENDUM
FOR REMOTE CONTROL, CARD, OR CODE ACCESS GATE
Becomes part of Lease Contract

1. DWELLING DESCRIPTION.
5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. REMOTE CONTROL/CARDS/CODE FOR GATE ACCESS.

❑ **Remote control for gate access.** Each person who is listed as a resident on the lease will be given a remote control at no cost to use during his or her residency. Each additional remote control for you or other occupants will require a $ _____ non-refundable fee.

❑ **Cards for gate access.** Each person who is listed as a resident on the lease will be given a card at no cost to use during his or her residency. Each additional card for you or other occupants will require a $ _____ non-refundable fee.

❑ **Code for gate access.** Each resident will be given, at no cost, an access code (keypad number) for the pedestrian or vehicular access gates. It is to be used only during your residency. We may change the access code at any time and will notify you of any such changes.

4. DAMAGED, LOST OR UNRETURNED REMOTE CONTROLS, CARDS OR CODE CHANGES.

❑ If a remote control is lost, stolen or damaged, a $ _____ fee will be charged for a replacement. If a remote control is not returned or is returned damaged when you move out, there will be a $ _____ deduction from the security deposit.

☒ If a card is lost, stolen or damaged, a $ 75.00 fee will be charged for a replacement card. If a card is not returned or is returned damaged when you move out, there will be a $ 75.00 deduction from the security deposit.

❑ We may change the code(s) at any time and notify you accordingly.

5. REPORT DAMAGE OR MALFUNCTIONS. Please immediately report, in writing to the office any malfunction or damage to gates, fencing, locks or related equipment.

6. FOLLOW WRITTEN INSTRUCTIONS. We ask that you and all other occupants read the written instructions that have been furnished to you regarding the access gates. This is important because if the gates are damaged by you or other occupants, guests or invitees through negligence or misuse, you are liable for the damages under your lease, and collection of damage amounts will be pursued.

7. PERSONAL INJURY AND/OR PERSONAL PROPERTY DAMAGE. Except as specifically required by law, we have no duty to maintain the gates and cannot guaranty against gate malfunctions. We make no representations or guarantees to you concerning security of the community. Any measures, devices,or activities taken by us are solely for the benefit of us and for the protection of our property and interests, and any benefit to you of the same is purely incidental. Anything mechanical or electronic is subject to malfunction. Fencing, gates or other devices will not prevent all crime. No security system or device is foolproof or 100 percent successful in deterring crime. Crime can still occur. Protecting residents, their families, occupants, guests and invitees from crime is the sole responsibility of residents, occupants and law enforcement agencies. You should first call 911 or other appropriate emergency police numbers if a crime occurs or is suspected.We are not liable to any resident, family member, guest, occupant or invitee for personal injury, death or damage/loss of personal property from incidents related to perimeter fencing, automobile access gates and/or pedestrian access gates. We reserve the right to modify or eliminate security systems other than those statutorily required. You will be held responsible for the actions of any persons to whom you provide access to the community.

8. RULES IN USING VEHICLE GATES.

- Always approach entry and exit gates with caution and at a very slow rate of speed.
- Never stop your car where the gate can hit your vehicle as the gate opens or closes.
- Never follow another vehicle into an open gate. Always use your card to gain entry.
- Report, in writing to management the vehicle license plate number of any vehicle that piggybacks through the gate.
- Never force the gate open with your car.
- Never get out of your vehicle while the gates are opening or closing.
- If you are using the gates with a boat or trailer, please contact management for assistance. The length and width of the trailer may cause recognition problems with the safety loop detector and could cause damage.
- Do not operate the gate if there are small children nearby who might get caught in it as it opens or closes.
- If you lose your card, please contact the management office immediately.
- Do not give your card or code to anyone else.
- Do not tamper with gate or allow your occupants to tamper or play with gates.

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9. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(signs here)

Date of Lease Contract

February 27, 2026

SAMPLE

LEASE CONTRACT ADDENDUM
FOR SATELLITE DISH OR ANTENNA

Under a Federal Communications Commission (FCC) order, you as our resident have a right to install a transmitting or receiving satellite dish or antenna on the leased dwelling, subject to FCC limitations. We as a rental housing owner are allowed to impose reasonable restrictions relating to such installation. You are required to comply with these restrictions as a condition of installing such equipment. This addendum contains the restrictions that you and we agree to follow.

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. NUMBER AND SIZE. You may install 1 satellite dish(es) or antenna(s) on the leased premises. A satellite dish may not exceed one meter (3.3 feet) in diameter. Antennas that only transmit signals or that are not covered by 47 CFR § 1.4000 are prohibited.

4. LOCATION. Your satellite dish or antenna must be located: (1) inside your dwelling; or (2) in an area outside your dwelling such as a balcony, patio, yard, etc. of which you have exclusive use under your lease. Installation is not permitted on any parking area, roof, exterior wall, window, window sill, fence or common area, or in an area that other residents are allowed to use. A satellite dish or antenna may not protrude beyond the vertical and horizontal space that is leased to you for your exclusive use.

5. SAFETY AND NON-INTERFERENCE. Your installation: (1) must comply with all applicable ordinances and laws and all reasonable safety standards; (2) may not interfere with our cable, telephone or electrical systems or those of neighboring properties; (3) may not be connected to our telecommunication systems; and (4) may not be connected to our electrical system except by plugging into a 110-volt duplex receptacle. If the satellite dish or antenna is placed in a permitted outside area, it must be safely secured by one of three methods: (1) securely attaching it to a portable, heavy object such as a small slab of concrete; (2) clamping it to a part of the building's exterior that lies within your leased premises (such as a balcony or patio railing); or (3) any other method approved by us in writing. No other methods are allowed. We may require reasonable screening of the satellite dish or antenna by plants, etc., so long as it does not impair reception.

6. SIGNAL TRANSMISSION FROM EXTERIOR DISH OR ANTENNA TO INTERIOR OF DWELLING. You may not damage or alter the leased premises and may not drill holes through outside walls, door jams, window sills, etc. If your satellite dish or antenna is installed outside your dwelling (on a balcony, patio, etc.), the signals received by it may be transmitted to the interior of your dwelling only by the following methods: (1) running a "flat" cable under a door jam or window sill in a manner that does not physically alter the premises and does not interfere with proper operation of the door or window; (2) running a traditional or flat cable through a pre-existing hole in the wall (that will not need to be enlarged to accommodate the cable); (3) connecting cables "through a window pane," similar to how an external car antenna for a cellular phone can be connected to inside wiring by a device glued to either side of the window—without drilling a hole through the window; (4) wireless transmission of the signal from the satellite dish or antenna to a device inside the dwelling; or (5) any other method approved by us in writing.

7. SAFETY IN INSTALLATION. In order to assure safety, the strength and type of materials used for installation must be approved by us. However, our approval shall in no manner be construed as any guaranty or assurance of safety. Installation must be done by a qualified person or company approved by us. Our approval will not be unreasonably withheld. An installer provided by the seller of the satellite dish or antenna is presumed to be qualified.

8. MAINTENANCE. You will have the sole responsibility for maintaining your satellite dish, antenna and all related equipment.

9. REMOVAL AND DAMAGES. You must remove the satellite dish or antenna and all related equipment when you move out of the dwelling. In accordance with the Lease Contract, you must pay for any damages and for the cost of repairs or repainting caused by negligence, carelessness, accident or abuse which may be reasonably necessary to restore the leased premises to its condition prior to the installation of your satellite dish, antenna or related equipment. You will not be responsible for normal wear.

10. LIABILITY INSURANCE. You shall have full responsibility for the satellite dish, antenna and related equipment. If the dish or antenna is installed at a height that could result in injury to others if it becomes unattached and falls, you must provide us with evidence of liability insurance (if available) to protect us against claims of personal injury and property damage to others, related to your satellite dish, antenna and related equipment. The insurance coverage must be $ 10000.00, which is an amount reasonably determined by us to accomplish that purpose. Factors affecting the amount of insurance include height of installation above ground level, potential wind velocities, risk of the dish/antenna becoming unattached and falling on someone, etc.

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11. SECURITY DEPOSIT. An additional security deposit of $ 0.00 will be charged. We *(check one)* ❑ will consider or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract *(check one)* ❑ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

This additional security deposit is required to help protect us against possible repair costs, damages, or failure to remove the satellite dish, antenna and related equipment at time of move-out. Factors affecting any security deposit may vary, depending on: (1) how the dish or antenna is attached (nails,screws, lag bolts drilled into walls); (2) whether holes were permitted to be drilled through walls for the cable between the satellite dish and the TV; and (3) the difficulty and cost repair or restoration after removal, etc.

12. WHEN YOU MAY BEGIN INSTALLATION. You may start installation of your satellite dish, antenna or related equipment only after you have: (1) signed this addendum; (2) provided us with written evidence of the liability insurance referred to in paragraph 10 of this addendum; (3) paid us the additional security deposit, if applicable, in paragraph 11; and (4) received our written approval of the installation materials and the person or company that will do the installation, which approval may not be unreasonably withheld.

13. MISCELLANEOUS. If additional satellite dishes or antennas are desired, an additional lease addendum must be executed.

14. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(signs here)

Date of Lease Contract

February 27, 2026

SAMPLE

ADDENDUM PROHIBITING SHORT-TERM SUBLETTING OR RENTAL

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. SHORT TERM SUBLEASE OR RENTING PROHIBITED. Without limiting the prohibition in the Lease on subletting assignment, and licensing, and without limiting any of our rights or remedies, this Addendum to the Lease further supplements and defines the requirements and prohibitions contained in the Lease Contract between you and us. You are hereby strictly prohibited from subletting, licensing, or renting to any third party, or allowing occupancy by any third party, of all or any portion of the dwelling, whether for an overnight use or duration of any length, without our prior written consent in each instance. This prohibition applies to overnight stays or any other stays arranged on Airbnb.com or other similar internet sites.

4. PROHIBITION ON LISTING OR ADVERTISING DWELLING ON OVERNIGHT SUBLETTING OR RENTING WEBSITES. You agree not to list or advertise the dwelling as being available for short term subletting or rental or occupancy by others on Airbnb.com or similar internet websites. You agree that listing or advertising the dwelling on Airbnb.com or similar internet websites shall be a violation of this Addendum and a breach of your Lease Contract.

5. VIOLATION OF LEASE AGREEMENT. Your Lease Contract allows for use of your dwelling as a private residence only and strictly prohibits conducting any kind of business in, from, or involving your dwelling unless expressly permitted by law. Separately, your Lease Contract prohibits subletting or occupancy by others of the dwelling for any period of time without our prior written consent. Permitting your dwelling to be used for any subletting or rental or occupancy by others (including, without limitation, for a short term), regardless of the value of consideration received or if no consideration is received, is a violation and breach of this Addendum and your Lease Contract.

6. REMEDY FOR VIOLATION. Any violation of this Addendum constitutes a material violation of the Lease Contract, and as such we may exercise any default remedies permitted in the Lease Contract, including termination of your tenancy, in accordance with local law. This clause shall not be interpreted to restrict our rights to terminate your tenancy for any lawful reason, or by any lawful method.

7. RESIDENT LIABILITY. You are responsible for and shall be held liable for any and all losses, damages, and/or fines that we incur as a result of your violations of the terms of this Addendum or the Lease Contract. Further, you agree you are responsible for and shall be held liable for any and all actions of any person(s) who occupy your dwelling in violation of the terms of this Addendum or the Lease Contract, including, but not limited to, property damage, disturbance of other residents, and violence or attempted violence to another person. In accordance with applicable law, without limiting your liability you agree we shall have the right to collect against any renter's or liability insurance policy maintained by you for any losses or damages that we incur as the result of any violation of the terms of this Addendum.

8. SEVERABILITY. If any provision of this Addendum or the Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Addendum or the Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Addendum while preserving the intent of the parties.

9. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign)

Owner or Owner's Representative
(Signs below)

Date of Signing Addendum

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SUSTAINABLE LIVING ADDENDUM

1. **DWELLING UNIT DESCRIPTION.**
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. **LEASE CONTRACT DESCRIPTION.**
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC
_____
_____
_____
_____
_____

Residents *(list all residents - leaseholders and occupants)*:
_____
_____
_____
_____
_____
_____
_____
_____
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_____

Occupants:
_____
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_____

This Addendum constitutes an Addendum to the above-described Lease Contract for the above-described premises and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **PURPOSE OF ADDENDUM.** This Addendum will provide requirements and guidelines that are beneficial to improve the quality of the Community's social, environmental, and economic impact for all. All Residents are required to sign this Addendum.

4. **ENERGY EFFICIENCY.** The following are guidelines recommended to reduce overall energy consumption and reduce electricity/gas expenses.

Thermostat Settings. During the winter months, Energy.gov (https://www.energy.gov/)recommends setting your thermostat to 68°F while you are awake and setting it lower while you are asleep or away from home. Considerations should be made for extremely cold temperatures as to avoid freezing pipes.

During the summer months, with central air conditioning, Energy.gov recommends setting the thermostat to 78°F while you are occupying the apartment and need cooling and setting the thermostat higher while you are away. Energy.gov recommends that you set your thermostat at as high a temperature as comfortably possible and ensure humidity control if needed.

Please note that the thermostat settings listed above are only recommended guidelines and that the appropriate thermostat setting will depend upon weather conditions and the size and layout of your unit.

Lighting and Light Bulbs. Use natural light when possible. Consider replacing standard incandescent light bulbs with energy-saving compact fluorescent light bulbs (CFLs) or light-emitting diodes (LEDs).

Appliances. We strongly encourage the use of appliances that have the ENERGY STAR label or other energy-efficient labeling.

Conserve Electricity. Consider unplugging chargers for power tools, mobile phones, laptops, televisions, and other electronic devices when not in use, or when you plan to be away from the apartment for an extended period of time.

5. **WATER EFFICIENCY – REQUIREMENTS AND SUGGESTIONS.** The following requirements and suggestions will help reduce overall water consumption at the Community.

Requirements.

- Residents are required to report leaks to owner immediately to prevent damage, conserve water, and manage water/sewer costs.
- The apartment may come equipped with water saving fixtures and appliances, including, but not limited to, showerheads, toilets, faucets, dishwashers, and washing machines. Residents are required to receive written approval from us prior to replacing or altering any of these fixtures/appliances.

Suggestions.

- Every drop counts! Turn off water when shaving, washing hands, and brushing your teeth.
- When doing laundry, also consider only washing full loads. When washing small loads, be sure to use the appropriate water level setting.

6. **WASTE AND RECYCLING – REQUIREMENTS AND SUGGESTIONS.** The following requirements and suggestions will help reduce overall waste consumption and reduce waste expenses.

Requirements.

- All Residents are required to dispose of waste and recyclables in the appropriate containers in accordance with the Owner's Rules and Regulations, in addition to any applicable local ordinances.
- Per common practice, the following materials are generally not recyclable: Styrofoam, window glass and mirrors, electronic waste (TVs and computers), motor oil containers, yard waste, chemicals, cleaning products or solutions, chemical containers, shredded paper, plastic bags, ceramics or dishes, food waste, scrap metal, monitors.

Suggestions.

- For materials that are not recyclable, we recommend finding ways to reduce and reuse those items. Visit https://www.plasticfilmrecycling.org for additional information.
- We encourage you to contact your local Waste Industries branch or recycling center to find a list of accepted materials for your recycling center.

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7. **INDOOR ENVIRONMENT AND WELLNESS.** The following are guidelines which promote the quality of the indoor environment and wellness:

   - This Community ☒ is ☐ is not a smoke-free environment. If the Community is a smoke-free environment, then no smoking or vaping is allowed anywhere in the Community, at any time. Smoking refers to any use or possession of a cigar, cigarette, e-cigarette, hookah, vaporizer, or pipe containing tobacco or a tobacco product while that tobacco or tobacco product is burning, lighted, vaporized, or ignited, regardless of whether the person using or possessing the product is inhaling or exhaling the smoke from such product. The term tobacco includes, but is not limited to any form, compound, or synthesis of the plant of the genus Nicotiana or the species N. tabacum which is cultivated for its leaves to be used in cigarettes, cigars, e-cigarettes, hookahs, vaporizers, or pipes. Smoking also refers to use or possession of burning, lighted, vaporized, or ignited non-tobacco products if they are noxious, offensive, unsafe, unhealthy, or irritating to other persons. Please refer to the No-Smoking Addendum for further information.
   - Owner provides common area cleaning using products that have the Green Cleaning® seal or a similar green certification. Owner recommends that Residents also use like products in the cleaning of their units.

8. **SEVERABILITY.** If any provision of this Addendum to the Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Addendum to the Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Addendum to the Lease Contract while preserving the intent of the parties.

9. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign)

Owner or Owner's Representative
(signs below)

Date of Signing Addendum

SAMPLE

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WASHER AND DRYER ADDENDUM

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC
_____
_____
_____
_____
_____

Residents *(list all residents)*:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. PURPOSE OF ADDENDUM. In consideration of your agreeing to rent a washer and dryer from us and by signing this Addendum, you agree to the terms and conditions set forth herein.

4. OWNER SUPPLIED WASHER AND DRYER.

A. Washer and Dryer Rental Fees. We agree to rent to you a washer and dryer for the sum of $0.00 per month, beginning on _____ and expiring concurrently with the above referenced Lease Contract, including any renewal periods.

You shall pay the monthly washer and dryer rental amount in advance and without demand, as additional rent, along with your monthly rent payment. If any monthly washer and dryer rent is not paid on or before the due date, we or our agent(s) reserve the right to remove the equipment, as provided by law.

B. Identification of Washer and Dryer. You are entitled to exclusive use of a:

☒ Full Size
☐ Stackable
☐ Other: _____

Washer Model/Serial Number:

N/A

Dryer Model/Serial Number:

N/A

The washer/dryer set will hereinafter collectively be referred to as the "equipment." You acknowledge that you have inspected the equipment, and have found the same to be in good working condition free from any defect or mechanical issue. You further acknowledge that the equipment is for your use and in consideration of your agreement to pay washer and dryer rent. We are the owner of the equipment, and you shall not remove the equipment from the dwelling. Removal of the equipment from the dwelling without our prior written consent will constitute theft, and result in our reporting to law enforcement and pursuit of both criminal and civil penalties against you.

C. Responsibility for Damages. You agree to immediately report any and all repairs or maintenance needed to the equipment to us. You will be responsible for any damages to our property, or to the personal property of others, if you fail to promptly report needed repairs or maintenance, and such needed repairs or maintenance not being able to be carried out causes damage to our property, or to the personal property of others. Except as may otherwise be prohibited by law, (1) you are responsible for any damage caused by a leaking washer, and will be billed by us for such damage; (2) we are not liable for any damage caused by the equipment; (3) you agree to waive any and all claims, liabilities and actions of any nature you may ever have against us and our agents for the delivery, repair, maintenance or removal of equipment unless such claims arise from any proximately caused negligence or intentional act committed by us or our agents; and (4) you agree to indemnify and to hold us and our agents harmless from and/or for any and all damages of any nature or kind arising from your willful or negligent misuse of the equipment.

D. Insurance. At all times you must carry renter's insurance that provides insurance coverage for damage to your personal belongings from accidental water discharge from the equipment or other causes. The insurance must also provide coverage for any potential liability, due to your fault, for water or other damage to other units and to personal property of others. You must verify with your insurance agent that such coverages are included in your policy and must furnish us a copy of the policy upon our request.

5. ACCESS TO WASHER AND DRYER; EMERGENCIES. You agree to allow our agent(s) access to the dwelling and the equipment for the purpose of delivery, repair, maintenance, replacement or removal of the equipment. You agree to make any necessary preparations, including clearing a path to the laundry closet and securing all pets. Additionally, without advanced notice, you agree to allow our agent(s) access to the dwelling and the equipment in the event of an emergency, as provided by law.

6. RESIDENT USE AND MAINTENANCE OF WASHER AND DRYER. You agree to use the equipment for normal household purposes, to use diligence in using the equipment, and to take proper care of the equipment. An equipment operations manual will be provided to you upon your request. You acknowledge that you know how to operate the equipment. You are liable to us for all damages to the equipment beyond normal wear and tear including, but not limited to, scratches, dents, dings and costs for repairs. You must pay us for all damages to the equipment upon demand. If not previously paid, we will assess the cost of equipment rent and damages to the equipment against your security deposit and/or final account upon move-out. If you remove the equipment from the dwelling, you shall pay us the actual cost of replacing the equipment.

7. ADDITIONAL PROVISIONS. You agree that sums and charges owed under this Addendum are additional rent. Violation of this Addendum including, but not limited to, your failure to pay monthly equipment rent is a breach of the Lease Contract, and we shall have all remedies available including termination of the Lease Contract and eviction. In addition, upon your failure to pay equipment rent, we shall have the right to remove the equipment, as provided by law. You shall remain liable for all amounts due under this Addendum until you vacate the dwelling, including holding over or month-to- month periods, and all provisions of this Addendum will remain in full force and effect during such periods.

SAMPLE

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8. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Resident or Residents
(All residents must sign)

Owner or Owner's Representative
(signs below)

Date of Signing Addendum

SAMPLE

LEASE ADDENDUM FOR RENT CONCESSION OR OTHER RENT DISCOUNT

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. CONCESSION/DISCOUNT AGREEMENT. As consideration for your agreement to remain in your dwelling and to fulfill your Lease obligations throughout the full term of your Lease, you will receive the following rent Concession and or Discount.

(Check all that apply)

❑ **One-Time Concession.** You will receive a One-Time Concession off the rent indicated in the Rent and Charges paragraph of the Lease Contract in the total amount of $ _____ . This Concession will be credited to your rent due for the month(s) of: _____.

❑ **Monthly Discount/Concession.** The rent indicated in the Rent and Charges paragraph of the Lease Contract includes a Monthly Discount of $ _____ per month off of the suggested rental rate for your dwelling.

❑ **Other Discount/Concession.** You will receive the following discount off the rent indicated in the Rent and Charges paragraph of the Lease Contract: $ _____. Reason for discount/concession below:

❑ **Non-Monetary Concession.** You will receive the following non-monetary concession during the term of the Lease.

4. CONCESSION CANCELLATION AND CHARGE-BACK. The concession and discounts indicated above are provided to you as an incentive and with the understanding that you will fulfill your obligations under the Lease Contract through the entire term of your Lease.

If your lease is terminated early due to your default (for example, if you abandon the premises without paying rent or are evicted), this Concession/Discount Agreement will be immediately terminated, and you will be required to immediately repay to the Owner the amounts of all *(Check all that apply)*

☒ Concessions
☒ Discounts

that you have actually received for the months you resided in the Premises, and without further notice from us.

5. MARKET RENT. The market rent for this dwelling is the rent stated in the Lease Contract. You acknowledge that the market rent is a fair representation of what the specific dwelling would actually rent for at the time the Lease Contract was negotiated and executed, and is reflective of the rent for a similar dwelling at comparable properties.

6. SPECIAL PROVISIONS. The following special provisions control over any conflicting provisions of this printed Addendum form or the Lease Contract.

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(signs here)

Date of Lease Contract
February 27, 2026

SAMPLE

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ANIMAL ADDENDUM

Becomes part of Lease Contract

Please note: We consider animals a serious responsibility and a risk to each resident in the dwelling. If you do not properly control and care for an animal, you'll be held liable if it causes any damage or disturbs other residents.

1. DWELLING DESCRIPTION.
5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown *(city)*, West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

The term of this Addendum is as follows:
Begins on _____, _____ and
ends on _____, _____.

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. A. ❑ NO APPROVED ANIMALS. If this box is checked, you are not allowed to have animals (including mammals, reptiles, birds, fish, rodents, and insects), even temporarily, anywhere in the dwelling or community unless we've authorized so in writing. We will authorize support and/or service animals for you, your guests, and occupants pursuant to the parameters and guidelines established by the Federal Fair Housing Act, HUD regulatory guidelines, and any applicable state and/or local laws.

If you are found to have unauthorized animals in your unit, you may be subject to the following fees:

Initial charge of $ 100.00 per animal, (not to exceed $100 per animal) and, for every day the unauthorized animals are in the unit, a daily charge of $ 10.00 per animal (not to exceed $10 per day per animal).

B. ☒ CONDITIONAL AUTHORIZATION FOR ANIMAL.
If this box is checked, you may keep the animal that is described below in the dwelling until the Lease Contract expires. But we may terminate this authorization sooner if your right of occupancy is lawfully terminated or if in our judgment you and your animal, your guests, or any occupant violate any of the rules in this Addendum.

4. ANIMAL DEPOSIT. An animal deposit of $ 0.00 will be charged per animal, unless stated otherwise in this Addendum. We *[check one]* ❑ will consider, or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract *[check one]* ❑ *does*, or ☒ *does not include* this additional deposit amount. Refund of the animal deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit. The total animal deposit for your animal(s) is $_____.

5. ADDITIONAL MONTHLY RENT. Your monthly rent (as stated in the Lease Contract) will be increased by $ 30.00 per animal, unless stated otherwise in this Addendum. The monthly rent amount in the Rent and Charges paragraph of the Lease Contract *[check one]* ❑ includes ☒ does not include this additional animal rent. The total monthly rent for your animal(s) is $_____ .

6. ADDITIONAL FEE. You must also pay a one-time non-refundable fee of $ 300.00 per animal, unless stated otherwise in this Addendum, for having the animal in the dwelling. It is our policy to not charge a deposit for support animals. The total additional fee for your animal(s) is $_____.

7. LIABILITY NOT LIMITED. The additional monthly rent and additional security deposit under this Animal Addendum do not limit residents' liability for property damages, cleaning, deodorization, defleaing, replacements, or personal injuries.

8. DESCRIPTION OF ANIMAL(S). You may keep only the animal(s) described below. You may not substitute any other animal(s). Neither you nor your guests or occupants may bring any other animal(s)-mammal, reptile, bird, amphibian, fish, rodent, arachnid, or insect-into the dwelling or community.

Animal's name: _____
Type: _____
Breed: _____
Color: _____
Weight: _____ Age: _____
City of license: _____
License no.: _____
Date of last rabies shot: _____
Housebroken? _____
Animal owner's name: _____

Animal's name: _____
Type: _____
Breed: _____
Color: _____
Weight: _____ Age: _____
City of license: _____
License no.: _____
Date of last rabies shot: _____
Housebroken? _____
Animal owner's name: _____

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Animal's name: _____
Type: _____
Breed: _____
Color: _____
Weight: _____ Age: _____
City of license: _____
License no.: _____
Date of last rabies shot: _____
Housebroken? _____
Animal owner's name: _____

Animal's name: _____
Type: _____
Breed: _____
Color: _____
Weight: _____ Age: _____
City of license: _____
License no.: _____
Date of last rabies shot: _____
Housebroken? _____
Animal owner's name: _____

9. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

Must be full-grown (at least 1 year of age), less than 75 pounds, limit two pets per apartment. Breed Restricted List can be located on theGreystar - Master Addendum and Community Policies addendum.

10. EMERGENCY. In an emergency involving an accident or injury to your animal, we have the right, but not a duty, to take the animal to the following veterinarian for treatment, at your expense.

Doctor: _____
Address: _____
City/State/Zip: _____
Phone: _____

11. ANIMAL RULES. You are responsible for the animal's actions at all times. You agree to abide by these rules:

- The animal must not disturb the neighbors or other residents, regardless of whether the animal is inside or outside the dwelling.
- Dogs, cats, and support animals must be housebroken. All other animals must be caged at all times. No animal offspring are allowed.
- Inside, the animal may urinate or defecate *only* in these designated areas: Litter Box
- Outside, the animal may urinate or defecate *only* in these designated areas: Grass Areas
- Animals may not be tied to any fixed object anywhere outside the dwellings, except in fenced yards (if any) for your exclusive use.
- You must not let an animal other than support animals into swimming-pool areas, laundry rooms, offices, clubrooms, other recreational facilities, or other dwellings.
- Your animal must be fed and watered inside the dwelling. Don't leave animal food or water outside the dwelling at any time, except in fenced yards (if any) for your exclusive use.
- You must keep the animal on a leash and under your supervision when outside the dwelling or any private fenced area. We or our representative may pick up unleashed animals and/or report them to the proper authorities. We may impose reasonable charges for picking up and/or keeping unleashed animals.
- Unless we have designated a particular area in your dwelling or on the grounds for animal defecation and urination, you are prohibited from letting an animal defecate or urinate *anywhere* on our property. You must take the animal off our property for that purpose. If we allow animal defecation inside the dwelling in this Addendum, you must ensure that it's done in a litter box with a kitty litter-type mix. If the animal defecates anywhere on our property (including in a fenced yard for your exclusive use), you'll be responsible for immediately removing the waste and repairing any damage. Despite anything this Addendum says, you must comply with all local ordinances regarding animal defecation.

12. ADDITIONAL RULES. We have the right to make reasonable changes to the animal rules from time to time if we distribute a written copy of any changes to every resident who is allowed to have animals.

13. VIOLATION OF RULES. If you, your guest, or any occupant violates any rule or provision of this Animal Addendum (based upon our judgment) and we give you written notice, you must permanently remove the animal from the premises within the time period specified in our notice. We also have all other rights and remedies set forth in the Lease Contract, including damages, eviction, and attorney's fees.

14. COMPLAINTS ABOUT ANIMAL. You must immediately and permanently remove the animal from the premises if we receive a reasonable complaint from a neighbor or other resident or if we, in our sole discretion, determine that the animal has disturbed neighbors or other residents.

15. REMOVAL OF ANIMAL. In some circumstances, we may allow an animal control officer or humane society representative to enter the dwelling and remove the animal if, in our sole judgment, you have:

- abandoned the animal;
- left the animal in the dwelling for an extended period of time without food or water; or
- failed to care for a sick animal.

If you have violated our animal rules or let the animal defecate or urinate where it's not supposed to you will be subject to eviction and other remedies under the Lease Contract.

16. LIABILITY FOR DAMAGES, INJURIES, CLEANING, ETC. You and all co-residents will be jointly and severally liable for the entire amount of all damages caused by the animal, including all cleaning, defleaing, and deodorizing. This provision applies to all parts of the dwelling, including carpets, doors, walls, drapes, wallpaper, windows, screens, furniture, appliances, as well as landscaping and other outside

SAMPLE

improvements. If items cannot be satisfactorily cleaned or repaired, you must pay for us to replace them completely. Payment for damages, repairs, cleaning, replacements, etc. are due immediately upon demand.

As owner of the animal, you're strictly liable for the entire amount of any injury that the animal causes to a person or anyone's property. You'll indemnify us for all costs of litigation and attorney's fees resulting from any such damage.

17. **MOVE-OUT.** When you move out, you'll pay for defleaing, deodorizing, and shampooing to protect future residents from possible health hazards, regardless of how long the animal was there. We—not you—will arrange for these services.

18. **JOINT AND SEVERAL RESPONSIBILITY.** Each resident who signed the Lease Contract must sign this Animal Addendum. You, your guests, and any occupants must follow all animal rules. Each resident is jointly and severally liable for damages and all other obligations set forth in this Animal Addendum, even if the resident does not own the animal.

19. **GENERAL.** You acknowledge that no other oral or written agreement exists regarding animals. Except for special provisions noted in paragraph 9 above, our representative has no authority to modify this Animal Addendum or the animal rules except in writing, as described under paragraph 12. This Animal Addendum and the animal rules are considered part of the Lease Contract described above. It has been executed in multiple originals, one for you and one or more for us.

You are legally bound by this document. Please read it carefully.

Resident or Residents
(All residents must sign)

_____

_____

_____

_____

_____

_____

Owner or Owner's Representative
(Signs below)

_____

Date of Signing Addendum

_____

SAMPLE

West Virginia/National Apartment Association Official Form, August 2025
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LEASE CONTRACT ADDENDUM FOR ENCLOSED GARAGE, CARPORT, OR STORAGE UNIT

Becomes part of Lease Contract

1. DWELLING DESCRIPTION.
5000 Domain Dr
(street address), _____ *(unit no. if applicable)* in Morgantown *(city),* West Virginia, 26501 *(zip code).*

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

The term of this Addendum is as follows:
Begins on _____, _____ and
ending on _____, _____.

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. GARAGE, CARPORT, OR STORAGE UNIT. You are entitled to exclusive possession of: *(check as applicable)*
❑ garage or carport attached to the dwelling;
❑ garage space number(s) _____;
❑ carport space number(s) _____;
and/or
❑ storage unit number(s) _____.

All terms and conditions of the Lease Contract apply to the above areas unless modified by this addendum.

4. SECURITY DEPOSIT(S). *Check all that apply.*
❑ **Garage.** An additional security deposit of $ _____ will be charged for the garage space. We *(check one)* ❑ will consider or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract *(check one)* ❑ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

❑ **Carport.** An additional security deposit of $ _____ will be charged for the carport. We *(check one)* ❑ will consider or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract *(check one)* ❑ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

❑ **Storage Unit.** An additional security deposit of $ _____ will be charged for the storage unit. We *(check one)* ❑ will consider or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract *(check one)* ❑ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

5. ADDITIONAL MONTHLY RENT. *Check all that apply.*
❑ **Garage.** Your total monthly rent (as stated in the Lease Contract) will be increased by $ _____ for the garage space. The monthly rent amount in the Rent and Charges of the Lease Contract *(check one)* ❑ includes ☒ does not include this additional rent.

❑ **Carport.** Your total monthly rent (as stated in the Lease Contract) will be increased by $ _____ for the carport. The monthly rent amount in the Rent and Charges of the Lease Contract *(check one)* ❑ includes ☒ does not include this additional rent.

❑ **Storage Unit.** Your total monthly rent (as stated in the Lease Contract) will be increased by $ _____ for the storage unit. The monthly rent amount in the Rent and Charges of the Lease Contract *(check one)* ❑ includes ☒ does not include this additional rent.

6. USE RESTRICTIONS. Garage or carport may be used only for storage of operable motor vehicles unless otherwise stated in our rules or policies. Storage units may be used only for storage of personal property. No one may sleep, cook, barbeque, or live in a garage, carport, or storage unit. Persons not listed as a resident or occupant in the Lease Contract may not use the areas covered by this addendum. No plants may be grown in such areas.

7. NO DANGEROUS ITEMS. Items that pose an environmental hazard or a risk to the safety or health of other residents, occupants, or neighbors in our sole judgment or that violate any government regulation may not be stored. Prohibited items include fuel (other than in a properly capped fuel tank of a vehicle or a closed briquette lighter fluid container), fireworks, rags, piles of paper, or other material that may create a fire or environmental hazard. We may remove from such areas, without prior notice, items that we believe might constitute a fire or environmental hazard. Because of carbon monoxide risks, you may not run the motor of a vehicle inside a garage unless the garage door is open to allow fumes to escape.

8. NO SMOKE, FIRE, OR CARBON MONOXIDE DETECTORS. No smoke, fire, or carbon monoxide detectors will be furnished by us unless required by law.

9. GARAGE DOOR OPENER. If an enclosed garage is furnished, you ❑ will ☒ will not be provided with a ❑ garage door opener and/or ❑ garage key. You will be responsible for maintenance of any garage door opener, including battery replacement. Transmitter frequency settings may not be changed on the garage door or opener without our prior written consent.

10. SECURITY. Always remember to lock any door of a garage or storage unit and any door between a garage and the dwelling. When leaving, be sure to lock all keyed deadbolt locks.

11. INSURANCE AND LOSS/DAMAGE TO YOUR PROPERTY. You will maintain liability and comprehensive insurance coverage for any vehicle parked or stored. We are not responsible for pest control in such areas.

SAMPLE

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12. **COMPLIANCE.** As allowed by law, we may periodically open and enter garages and storerooms to ensure compliance with this addendum. In the event we enter the garage or storerooms, we will comply with the notice provisions set forth in the Lease Contract.

13. **NO LOCK CHANGES, ALTERATIONS, OR IMPROVEMENTS.** Without our prior written consent, locks on doors of garages and storage units may not be rekeyed, added, or changed, and improvements, alterations, or electrical extensions or changes to the interior or exterior of such areas are not allowed. You may not place nails, screws, bolts, or hooks into walls, ceilings, floors, or doors. Any damage not caused by us or our representatives to areas covered by this addendum will be paid for by you.

14. **MOVE-OUT AND REMEDIES.** Any items remaining after you have vacated the dwelling will be removed, sold, or otherwise disposed of according to the Lease Contract, which addresses disposition or sale of property left in an abandoned or surrendered dwelling. All remedies in the Lease Contract apply to areas covered by this addendum.

15. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

Parking Passes must be visible from the exterior of the vehicle. Any vehicle not properly displaying the correct parking pass for the designated space will be subject to towing fees without notice.

Resident or Residents
(All residents must sign here)

Owner or Owner's Representative
(signs here)

Date of Lease Contract

February 27, 2026

SAMPLE

SUPPORT OR SERVICE ANIMAL AMENDMENT TO ANIMAL ADDENDUM

Date: February 27, 2026
(when this Amendment is filled out)

1. DWELLING UNIT DESCRIPTION.
Unit No. _____, 5000 Domain Dr
_____
_____ *(street address)* in
Morgantown
(city), West Virginia, 26501 *(zip code)*.

2. LEASE CONTRACT DESCRIPTION.
Lease Contract Date: February 27, 2026
Owner's name: CPI-GREP Domain Owner, LLC

Residents *(list all residents)*:

You acknowledge that the ownership of or need for the support or service animal does not entitle you to permit the animal to bother, threaten or harm other residents or persons without cause. While in common areas the animal must be supervised and the resident must retain control of the animal at all times. Resident is responsible for the proper disposal of animal waste. You acknowledge that if the animal violates the rules in the Animal Addendum or community rules, we have the right to evict both you and the support or service animal, as well as exercise other remedies under the Lease.

The resident is responsible for the care of the support or service animal. In the event the support or service animal is sick or injured and you are unavailable to seek treatment for the animal, we will have the right (but not the duty) to contact a veterinarian and incur on your behalf any necessary veterinarian charges to render aid or treatment to the animal.

We will not charge a security deposit for your support or service animal. You will, however, be liable for any damages that this animal may cause.

3. SPECIAL PROVISIONS. The following special provisions control over conflicting provisions of this printed form:

SAMPLE

You are legally bound by this document. Please read it carefully.

Resident or Residents
(All residents must sign)

Owner or Owner's Representative
(Signs below)

Date of Signing Amendment

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STUDENT LEASE GUARANTY AGREEMENT

Do not sign this Guaranty Agreement unless you understand that you have the same liability as all residents for rent and other money owed.

LEASE INFORMATION

About the Lease:
Owner's name *(or name of apartments)*: CPI-GREP Domain Owner, LLC

Resident name: __________

Street address: 5000 Domain Dr

Unit No.: __________
Bedroom No.: __________ *(if available)*

OR Floorplan: __________

City/State/Zip: Morgantown, WV 26501

Rent for the term: $ __________
Installment amount: $ __________
Number of installments: __________
Beginning date of Lease: __________
Ending date of Lease: __________

GUARANTOR INFORMATION *Use for one guarantor only.*

About the Guarantor:
Full name *(exactly as on driver's license or govt. ID card)*: __________

Current address: __________

Phone: __________
Alternative number or cell phone: __________
Email address: __________

1. **Scope of Liability.** Each guarantor must submit and execute a separate Guaranty Agreement. Termination of your obligation to guarantee the Lease applies only to future liabilities of the resident. You will remain fully liable for all sums owed to us by the resident, including damages, until all Lease obligations are fulfilled. You agree that your obligations as guarantor will continue and will not be affected by amendments, modifications, roommate changes or deletions, unit changes, or renewals in the Lease Contract which may be agreed to from time to time between resident(s) and us. The term "you" in this Guaranty Agreement refers to the guarantor.
2. **Our Remedies.** If we delay or fail to exercise lease rights, pursue remedies, give notices to you, or make demands to you, as guarantor, you will not consider it a waiver of our rights against you. Our remedies against the resident apply to guarantors as well. It is unnecessary for us to sue or exhaust remedies against residents in order for you to be liable.
3. **Location of Performance and Payments.** This Guaranty Agreement is part of the Lease and must be performed in the county where the dwelling unit is located. Payments under this Guaranty Agreement must be made in accordance with the Lease.
4. **Your Information.** You represent that all information submitted by you on this Guaranty Agreement is true and complete. You must inform us of any change of address. We may require this document to be notarized. You authorize verification of your information by consumer reports, rental-history reports, and other means. You acknowledge that our privacy policy is available to you. You agree the information provided may be used for business purposes.
5. **Notice.** You acknowledge that we have the right, but not the obligation, to provide you with any notices under the Lease, including notice of default by resident, either at the address of the unit or the address listed on this Guaranty Agreement.
6. **Signature.** A fax or electronic signature on this Guaranty Agreement will be binding as an original signature. You do not need to sign or be named in the Lease, only this Guaranty Agreement.
7. **Copy of Lease.** ***We recommend that you obtain a copy of the Lease and read it.*** This Guaranty Agreement applies even if you don't do so. We will give you a copy of the Lease if you request one in writing.
8. **Your Acknowledgments.** ***You acknowledge that by signing this Guaranty Agreement you unconditionally and fully guarantee all obligations under the Lease, including all rent and charges, late fees, property damage, repair costs, animal-rules-violation charges, reletting charges, and all other sums which may become due under the Lease.***
9. **Severability.** If any provision of this Guaranty Agreement is invalid or unenforceable under applicable law, it won't invalidate the remainder of the Guaranty Agreement.
10. **Special Provisions.** The following special provisions control over conflicting provisions of this printed form: __________

____
Signature of Guarantor *(electronic signature documented if blank)*

____
Date Guaranty Agreement is Executed

After signing, please return this Guaranty Agreement to: CPI-GREP Domain Owner, LLC

at *(street address or P.O. Box)* 5000 Domain Drive, Morgantown, WV 26501

Our telephone number is: (304)598-0700

You are entitled to a copy of this Guaranty Agreement when it is fully signed. Keep it in a safe place.

FOR OFFICE USE ONLY
Signature of Guarantor was verified by owner's representative.
Verification was by ❑ phone ***OR*** ❑ in person ***OR*** ❑ virtual.
Date(s) of verification: __________
Telephone numbers called *(if applicable)*: __________
Owner's representative who talked to Guarantor: __________

SAMPLE

SCHEDULE 2.10(b)
Form of Certification

(to be delivered to Master Tenant via e-mail in connection with Manager's delivery of the Monthly Reports)

"Greystar Accounting hereby certifies that:
1. I have complied and reviewed the financial statements of "PROPERTY NAME HERE" for the period ending "insert date here";

2. I hereby certify that the financial statements filed herewith and any notes thereto, fairly present, in all material respects, the financial position, results of operations and cash flows for the periods presented, are in conformity with accounting principles generally accepted, and consistently applied;
3. Based on my knowledge, the financial statements do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the annual reports and the interim report;

4. Based on my knowledge, the financial statements, and other financial information included in the monthly reports, fairly present in all material respects the financial condition results of operations and cash flows of, and for, the periods presented in the monthly reports; and

5. The information contained in the financial statements are unaudited and may be ultimately amended, modified or supplemented by an independent certified public accountant performing auditing functions."

SCHEDULE 3.2(c)

FORM OF REQUEST FOR FUNDS

Connection Waterfall

	Cash Uses: (From Operating Account)			
1	Tax reserve	$0.00		
	Ins. reserve	$0.00		monthly statement
	Rep. reserve	$0.00		from
	Mortgage	$0.00		lender/servicer
			$0.00	
2	Payroll	$0.00		
	Payroll	$0.00	$0.00	use prior cycle estimate x2
3	Greystar reimbursement 1	$0.00		
	Greystar reimbursement 2	$0.00		need to detail out
	Greystar reimbursement 3	$0.00		by major billback
			$0.00	
4	Utility	$0.00	$0.00	
5	Management fee	$0.00	$0.00	
6	Tenant Refunds Outstanding	$0.00	$0.00	

7	Services/goods for which invoices have not been received	$0.00	$0.00	this will be based on POs incurred which are not yet payables
8	Amount remaining for AP		$0.00	this is the amount remaining for payables
9	Open Payables	$0.00		
	CapEx	$0.00	$0.00	

EXHIBIT E

CONSTRUCTION MANAGEMENT AGREEMENT

[ATTACHED]

CONSTRUCTION MANAGEMENT AGREEMENT

THIS CONSTRUCTION MANAGEMENT AGREEMENT (this "**Agreement**") made effective as of March 11, 2026 (the "**Effective Date**"), by and between FREX DB LeaseCo Series I LLC, a Delaware limited liability company (the "**Master Tenant**") and FREX DST Holdings LLC, a Delaware limited liability company ("**DST Holdings**").

RECITALS

A. **WHEREAS**, FREX DB Series I DST, a Delaware statutory trust (the "**Trust**") acquired that certain apartment community known as "Domain at Town Centre" in Morgantown, West Virginia (the "**Project**"), and maintains, owns, operates, leases and otherwise deals with the Project;

B. **WHEREAS**, the Trust entered into that certain Master Lease Agreement dated on or about even herewith whereby the Trust master leased the Project to the Master Tenant (the "**Master Lease**") and the Master Tenant may undertake certain renovations (the "**Work**") to the Project in connection with its duties and obligations under the Master Lease;

C. **WHEREAS**, a third party has assumed property management responsibilities at the Project, and the Master Tenant believes it is in the Property's best interest for DST Holdings or one of its affiliates to perform construction management services at the Project; and

D. **WHEREAS**, this Agreement is intended to memorialize the understandings and agreements of the Master Tenant and DST Holdings regarding DST Holdings' construction management services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DST Holdings' Duties.

(a) DST Holdings can perform the services and carry out the responsibilities with respect to the Project as are set forth herein, and such additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities and are designated from time to time by the Master Tenant.

(b) DST Holdings' service shall be performed in the name and on behalf of the Master Tenant and shall consist of the duties set forth in subparagraphs (i)-(x) below of this Section 1(b) and as provided elsewhere in this Agreement; *provided*, *however*, that if the performance of any duty of DST Holdings set forth in this Agreement is beyond the reasonable control of DST Holdings, DST Holdings shall promptly notify the Master Tenant that the performance of such duty is beyond its reasonable control and the reasons therefore and shall not be in breach of this Agreement for failure to perform the same. DST Holdings shall perform the following:

(i) Negotiate and cause to be executed in the name and on behalf of the Master Tenant any agreements (or amendments thereto) for architectural, engineering, testing or consulting services for the Project, and any agreements for the Work or the furnishing of any supplies, materials, machinery or equipment therefore, *provided* that no Agreement shall be executed nor binding commitment made until the terms and conditions therefore and the party with whom the agreement is to be made have been approved by the Master Tenant in writing.

(ii) Perform the following tasks in connection with the Work:

(1) coordination and administration of the Project architect, if any, and all contractors, professionals and consultants employed in connection with the Work;

(2) administration of any contracts with any Project architect, general contractor, and other contractors, professionals and consultants retained for any portion of the Work on behalf of the Master Tenant;

(3) participation in conferences and the rendering of such advice and assistance as will aid in completion of the Work;

(4) rendering of advice and recommendations as to the selection of the general contractor, subcontractors and suppliers, as applicable for any particular component of the Work;

(5) review and submit to the Master Tenant for approval of all requests for payments under any architectural agreement, contractor's agreements;

(6) assemble and submit loan draw packages to the Master Tenant for approval and, upon receipt of such approval, submit the same for the benefit of the Master Tenant to the applicable lender for the design or construction of any portion of the Work;

(7) furnishing such consultation and advice relating to the Project as may be reasonably requested from time to time by the Master Tenant;

(8) keeping the Master Tenant fully informed on a regular basis of the progress of the Work, including the preparation of such reports as are provided for herein or as may reasonably be requested by the Master Tenant; and

(9) at the Master Tenant's expense, filing on behalf of and as the attorney-in-fact for the Master Tenant any notices of completion required or permitted to be filed upon the completion of any portion of the Work and taking such actions as may be required to obtain any certificates of occupancy or equivalent documents required to permit the occupancy of the Project;

(iii) Inspect the progress of the Work and confer with the Project architect and other affiliated and third parties hired by the Master Tenant to verify the materials and labor being furnished in connection with the Work so as to be fully competent to approve or disapprove requests for payment made by the Project architect and the general contractor, or by any other parties with respect to the Work.

(iv) If requested to do so by the Master Tenant, perform on behalf of the Master Tenant and at the Master Tenant's expense all obligations of the Master Tenant with respect to the Work contained in any loan agreement or security agreement in connection with the Project, or in any lease or rental agreement relating to space in the Project, or in any agreement entered into with any governmental body or agency relating to the terms and conditions of the Work, *provided* that copies of such agreements have been provided by the Master Tenant to DST Holdings or the Master Tenant has otherwise notified DST Holdings in writing of such obligations.

(v) To the extent requested to do so by the Master Tenant, prepare and distribute to the Master Tenant a critical path schedule, and periodic updates thereto as necessary to reflect any material changes, but in any event not less frequently than monthly, other rehabilitation cost estimates as required by the Master Tenant, and financial accounting reports,

including monthly progress reports on the progress and cost of the Work and recommendations as to the drawing of funds from any loans arranged by the Master Tenant to cover the cost of the Work.

(vi) Assemble and retain all contracts, agreements and other records and data as may be necessary to carry out DST Holdings' functions hereunder.

(vii) Use commercially reasonable efforts to cause the contractor to accomplish the timely completion of the Work in accordance with the approved plans and specifications and the time schedules for such completion approved by the Master Tenant. The Master Tenant understands and acknowledges that there may be circumstances out of DST Holdings' control that delay the Project, such as unanticipated weather, inspection delays, and jurisdiction compliance issues ("**Force Majeure Events**"). DST Holdings shall not be in breach of this Agreement nor liable for damages resulting from Force Majeure Events or for failure of the applicable contractors to timely complete the Work so long as DST Holdings has used commercially reasonable efforts to effectuate the same.

(viii) Use commercially reasonable efforts to cause all contractors and consultants (independent and otherwise) who have entered into contracts with the Master Tenant relating to the Work to comply with their respective contractual obligations contained in such contracts. The Master Tenant intends that all contracts with contractors and consultants will require the contractor or consultant to comply with all applicable present and future laws, ordinances, orders rules, regulations and requirements of all federal, state and municipal governments, courts, departments commissions, boards and offices, any national or local Board of Fire Underwriters or Insurance Services offices having jurisdiction in the county in which the Project is located or any other body exercising functions similar to those of any of the foregoing, or any insurance carriers providing any insurance coverage for the Master Tenant or the Project, which may be applicable to the Project or any part thereof.

(ix) At the direction and expense of the Master Tenant, implement any decisions of the Master Tenant made in connection with the Work or any policies and procedures relating thereto.

(x) Perform and administer any and all other services and responsibilities of DST Holdings which are set forth in any other provisions of this Agreement, or which are reasonably requested to be performed by the Master Tenant and are within the general scope of services described herein.

2. <u>Limitations and Restrictions</u>.

(a) Notwithstanding any provisions of this Agreement, DST Holdings shall not take any action, expend any sum, make any decision, give any consent, approval or authorization, or insure any obligation with respect to any of the following matters unless and until the same has been approved by the Master Tenant, in each case, subject also to any financing documents substantiating any financing with respect to the Project (the "**Loan Documents**"):

(i) Approval of all construction and design professional/architectural contracts and all architectural plans, specifications and drawings for any portion of the Work, if applicable, except for such matters as may be expressly delegated in writing to DST Holdings by the Master Tenant;

(ii) Any proposed change in the Work, or in the plans and specifications therefore as previously approved by the Master Tenant, or in the cost thereof, or any other change,

any of which would materially adversely affect the design, cost, value or quality of the Work, except for such matters as may be expressly delegated in writing to DST Holdings of the Master Tenant;

(iii) Making any expenditure or incurring any obligation by or on behalf of the Master Tenant or the Project involving a single item in excess of $50,000, except for such matters as may be otherwise expressly delegated in writing to DST Holdings by the Master Tenant or required by this Agreement;

(iv) Making any expenditure or incurring any obligation which, when added to other expenditures, will exceed the rehabilitation budget, except for such matters as may be otherwise expressly delegated in writing to DST Holdings by the Master Tenant or required by this Agreement.

(b) Notwithstanding any provision of this Agreement to the contrary, DST Holdings shall not be responsible for any construction defects or defaults arising in connection with the engagement of any contractors or subcontractors hereunder. For the avoidance of doubt, DST Holdings shall act solely in a supervisory capacity by overseeing any contractors or subcontractors engaged with respect to the Work, and the parties hereby acknowledge and agree that DST Holdings shall not under any circumstances be required to obtain or maintain a license as a contractor in connection herewith.

3. Accounts and Records.

(a) DST Holdings shall assist the Master Tenant in keeping such books of account and other records as may be required and approved by the Master Tenant, including, but not limited to records relating to the cost of the Work. DST Holdings shall keep vouchers, statements, receipted bills and invoices and all other records, in the form approved by the Master Tenant, covering all collections, if any, disbursements and other data in connection with the Project prior to final completion of the Work. All accounts and records relating to the Project, including all correspondence, shall be surrendered to the Master Tenant, upon demand without charge therefore.

(b) All books and records prepared or maintained by DST Holdings shall be kept and maintained at all times at the place or places approved by the Master Tenant, and shall be available for and subject to audit, inspection and copying by the Master Tenant or any representative or auditor thereof or supervisory or regulatory authority, at all times and in the manner set forth in the 2nd Amended and Restated Limited Liability Company Agreement of the Master Tenant, as may be further amended from time to time.

4. Indemnity.

(a) **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE MASTER TENANT AND DST HOLDINGS AGREE THAT THAT ONE OF DST HOLDINGS' DUTIES UNDER THIS AGREEMENT IS NEGOTIATING AND PROCURING CONTRACTS ON BEHALF OF THE MASTER TENANT. IN CONTRACTING FOR SAID CONTRACTS, DST HOLDINGS SHALL BE ACTING SOLELY AS THE MASTER TENANT'S AGENT, AND THE MASTER TENANT AGREES TO INDEMNIFY, DEFEND AND SAVE DST HOLDINGS, ITS PRINCIPALS, REPRESENTATIVES, AND EMPLOYEES, HARMLESS FROM AND AGAINST ALL CLAIMS ASSERTED AND LOSSES SUSTAINED BY REASON OF SUCH OBLIGATIONS AND EXPENDITURES INCURRED WITHIN THE SCOPE OF DST HOLDINGS' AUTHORITY. DST HOLDINGS MAY ADVISE ANY CONTRACTING PARTY WITH WHOM IT DEALS THAT DST HOLDINGS IS ACTING AS THE MASTER TENANT'S AGENT WITH RESPECT TO SUCH CONTRACTS, AND THAT DST HOLDINGS SHALL HAVE NO LIABILITY FOR THE OBLIGATION OR EXPENDITURE, AND MAY EXACT A COMMITMENT FROM THE**

CONTRACTING PARTY TO LOOK ONLY TO THE PROPERTY OR THE MASTER TENANT FOR PAYMENT.

(b) **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE MASTER TENANT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DST HOLDINGS AND ITS AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES, AND/OR EXPENSES ARISING OUT OF (I) DST HOLDINGS' PERFORMANCE UNDER THIS AGREEMENT, OR (II) FACTS, OCCURRENCES, OR MATTERS FIRST ARISING PRIOR TO THE DATE OF THIS AGREEMENT. THE MASTER TENANT, AT ITS OWN COST AND EXPENSE, SHALL DEFEND ANY ACTION OR PROCEEDING AGAINST DST HOLDINGS ARISING THEREFROM. NOTWITHSTANDING THE FOREGOING, THE MASTER TENANT SHALL NOT BE REQUIRED TO INDEMNIFY DST HOLDINGS AGAINST DAMAGES OR EXPENSES SUFFERED AS A RESULT OF THE WILLFUL MISCONDUCT, BAD FAITH, FRAUD OR GROSS NEGLIGENCE ON THE PART OF DST HOLDINGS, ITS AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF ITS DUTIES UNDER THIS AGREEMENT. DST HOLDINGS SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE MASTER TENANT AND ITS AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES, AND/OR EXPENSES ARISING OUT OF THE WILLFUL MISCONDUCT, BAD FAITH, FRAUD OR GROSS NEGLIGENCE ON THE PART OF DST HOLDINGS, ITS AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS AGREEMENT, AND SHALL AT ITS OWN COST AND EXPENSE DEFEND ANY ACTION OR PROCEEDING AGAINST THE MASTER TENANT ARISING THEREFROM.**

5. Construction Management Fee and Reimbursements.

(a) For its services rendered hereunder, DST Holdings shall receive a fee (the "**Construction Management Fee**") equal to the greater of (i) five percent (5%), and (ii) such other market-accepted percentage for parties engaging on arm's-length terms; of the construction costs, determined on a project-by-project basis, with respect to the Work. The Construction Management Fee shall be paid in periodic installments at the same time as the Master Tenant pays the construction costs (or as soon as reasonably practicable thereafter).

(b) In the event DST Holdings pays an expense that is properly an expense of the Master Tenant as referenced in this Agreement, the Master Tenant shall reimburse DST Holdings the amount so paid within ten (10) days after DST Holdings submits a written request for such reimbursement together with the appropriate receipts for same.

(c) The Master Tenant shall reimburse DST Holdings for reasonable travel and incidental expenses, including, but not limited to gas mileage, airfare, meals, and lodging required to adequately perform construction management duties so paid within ten (10) days after DST Holdings submits a written request for such reimbursement together with the appropriate receipts for.

(d) Notwithstanding any other provision of this Agreement (and except for costs or expenses that constitute "overhead" of DST Holdings), under no circumstances is DST Holdings required to incur any out-of-pocket costs or expenses in connection with their discharge of the Work provided herein. All costs and expenses incurred hereunder shall be the sole responsibility of and borne by the Master Tenant.

6. Term and Termination.

(a) Unless otherwise terminated pursuant to the terms hereof, this Agreement shall terminate on the earliest of (i) the date that the Master Lease is terminated or expires; (ii) upon a foreclosure or dead-in-lieu of foreclosure with respect to the Project by the applicable lender; and (iii) at any time that

the Project is sold by the Trust to a third party. This Agreement shall be applicable to all capital projects where the Master Tenant chooses to utilize DST Holdings' services. The foregoing notwithstanding, either party may terminate this Agreement on thirty (30) days written notice to the other party, in which event DST Holdings shall be paid the Construction Management Fee through the date of termination and be reimbursed for any expenses accrued under Sections 4(a) or 4(b) through the termination date. Unless earlier terminated, this Agreement shall terminate upon completion of the Work.

(b) In the event DST Holdings fails or refuses to perform any services required herein and such failure or refusal continues for a period of ten (10) days following notice thereof from the Master Tenant to DST Holdings, the Master Tenant may terminate this Agreement immediately by written notice to DST Holdings, in which event DST Holdings shall be paid the Construction Management Fee through the date of termination and be reimbursed for any expenses accrued under Sections 5(b) and 5(c) through the termination date.

(c) Upon termination, DST Holdings shall promptly return all files and other materials related to the Project to the Master Tenant and the Master Tenant's obligation for the payment of any future installment of the Construction Management Fee shall cease.

7. **Applicable Law & Legal Construction**. This agreement, and the application or interpretation hereof, shall be governed by and construed in accordance with the laws of the state in which the Project is located. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity and enforceability of any other provision of this Agreement and such invalid provision shall be deemed deleted.

8. **Binding Agreement**. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

9. **Headings**. All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

10. **Terminology**. All personal pronouns used in this Agreement whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

11. **Counterparts; Signatures**. This Agreement may be executed and delivered (including by facsimile transmission or portable document format (PDF)) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

12. **No Third Party Beneficiary**. This Agreement is intended solely for the benefit of the parties hereto and no third party (other than as specifically provided herein) shall have any rights, direct or indirect, hereunder.

13. **Assignment**. This Agreement and the rights and obligations hereunder may not be assigned by the Master Tenant. Notwithstanding the foregoing, DST Holdings may, in its sole discretion, assign, delegate, or subcontract all or any portion of the construction management services to its affiliates or third parties.

14. **Subordination to Loan Documents**. This Agreement shall remain subject and subordinate to the terms and conditions of the Master Lease and the Loan Documents.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date.

MASTER TENANT:

FREX DB LEASECO SERIES I LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

DST HOLDINGS:

FREX DST HOLDINGS LLC, a Delaware limited liability company

By: _____
Name: David Hammerman
Title: Authorized Signatory

EXHIBIT F

TAX OPINION

[ATTACHED]

Baker & McKenzie LLP

300 East Randolph Street, Suite 5000
Chicago, IL 60601
United States

Tel: +1 312 861 8000
Fax: +1 312 861 2899
www.bakermckenzie.com

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* Associated Firm
** In cooperation with Trench, Rossi e Watanabe Advogados

March 23, 2026

Fortress Real Estate Exchange LLC
1345 Avenue of the Americas, 46th Floor
New York, New York 10105

RE: FREX DB Series I DST

Dear Ladies and Gentlemen,

Fortress Real Estate Exchange LLC, a Delaware limited liability company (the "**Company**"), and FREX DB Series I DST (the "**Trust**") have retained Baker & McKenzie LLP, as special tax counsel, to address certain federal income tax consequences and render opinions on specific federal income tax issues in connection with the proposed transactions described in the Private Placement Memorandum for Interests in the Trust (the "**Memorandum**"). Unless otherwise indicated, all capitalized terms used herein and not otherwise defined have the meanings set forth in the Memorandum.

In formulating our opinion, we have reviewed the following documents: (i) the Memorandum; (ii) the Amended and Restated Trust Agreement (the "**Trust Agreement**"); (iii) the form Limited Liability Company Agreement accompanying the Trust Agreement; (iv) the Master Lease; (v) the Investor Questionnaire & Purchase Agreement; and (vi) the Loan Documents (collectively, the "**DST Transaction Documents**"). We have also assumed that the representations set forth in the letter addressed to us and signed on behalf of the Company on March 23, 2026 (the "**Representation Letter**"), are true, complete, and correct in all respects as of the date hereof.

Based on our review of the DST Transaction Documents and the Representation Letter, it is our opinion that (i) the Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c)[1] that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a); (ii) the Purchasers, as Beneficial Owners in the Trust, should be treated as "grantors" of the Trust; (iii) as "grantors" of the Trust, the Beneficial Owners should be treated as owning an undivided fractional interest in the Property for federal income tax purposes; (iv) the Interests should not be treated as securities for purposes of Section 1031; (v) the Interests should not be treated as certificates of trust or beneficial interests for purposes of Section 1031; (vi) the Master Lease should be treated as a true lease and not a financing for federal income tax purposes; (vii) the Master Lease should be treated as a true lease and not a deemed partnership for federal income tax purposes; (viii) the discussions of the federal income tax consequences contained in the Memorandum are correct in all material respects; and (ix) certain judicially created doctrines should not apply to change the foregoing conclusions.

[1] All section references provided for herein refer to the Internal Revenue Code of 1986 (the "**Code**"), as amended, and the treasury regulations promulgated thereunder (the "**Treasury Regulations**").

Baker McKenzie.

Our opinion does not address, and should not be viewed as expressing any opinion concerning, whether the acquisition of an Interest will, in light of the facts and circumstances applicable to a specific Purchaser, constitute the acquisition of like-kind replacement property by any Purchaser in a transaction that qualifies for nonrecognition of gain or loss under Section 1031.

DISCUSSION

Section 1031(a)(1) provides that "[n]o gain or loss shall be recognized on the exchange of real property held for productive use in a trade or business or for investment if such real property is exchanged solely for real property of like kind which is to be held either for productive use in a trade or business or for investment." Nonrecognition treatment does not apply if the interests in the property being exchanged are, *inter alia*, regarded as interests in a partnership, securities, or certificates of trust or beneficial interests.[2] Section 1031 does not expressly address the treatment of interests in a Delaware statutory trust ("**DST**").

The Internal Revenue Service (the "**IRS**") concluded in Revenue Ruling 2004-86[3] that, under the limited circumstances set forth therein, beneficial owners of a DST that owns real estate will be treated as owning a direct interest in such real estate for purposes of the nonrecognition provisions of Section 1031. In order to reach this conclusion, the IRS determined that (i) the DST described therein will be treated as an investment trust under Treasury Regulations Section 301.7701-4(c) that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a), and (ii) the beneficial owners of the DST are "grantors" and, as such, are treated as owning direct interests in the DST's property for federal income tax purposes. We believe that the tax treatment of the Trust and the Beneficial Owners (and the Interests that are the subject of the Offering) should be the same as the treatment of the DST and its beneficial owners in Revenue Ruling 2004-86.

I. The Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) that is classified as a "trust" under Treasury Regulations Section 301.7701-4(a).

The Trust should be classified as a "trust" under Treasury Regulations Section 301.7701-4(a) because it (i) should be recognized as an entity separate from the Beneficial Owners

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[2] Treas. Reg. § 1.1031(a)-1(a)(1); former Section 1031(a)(2)(C)-(E) (1984). On December 22, 2017, the Tax Cuts and Jobs Act ("**TCJA**") was signed into law. TCJA significantly modified Section 1031 by limiting it to *only* exchanges of certain real property not held primarily for sale. Exchanges of personal and intangible property completed after December 31, 2017, can no longer qualify for a Section 1031 Exchange. Additionally, TCJA eliminated specific language providing that exchanges of certain types of property (stock in trade or other property held primarily for sale, stocks, bonds, notes, other securities, or evidences of indebtedness or interest; interests in a partnership; certificates of trust or beneficial interest, or choses in action) are excluded from a Section 1031 Exchange. Although the specific language providing for non-qualification (for Section 1031 purposes) of interests in a partnership, securities, certificates of trust, and beneficial interests has been eliminated from the statute, an analysis of these terms remains relevant to the analysis and conclusion set forth herein that the Beneficial Owners should be treated as owning qualifying real property for federal income tax purposes.

[3] 2004-2 C.B. 191.

for federal income tax purposes, and (ii) should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c).

A. The Trust should be recognized as an entity separate from the Beneficial Owners for federal income tax purposes.

Whether an organization is an entity separate from its owners for federal income tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.[4] Thus, an entity formed under local law is not always recognized as a separate entity for federal income tax purposes.[5] When participants in a venture form a state-law entity and avail themselves of the benefits of that entity for a valid business purpose, however, the entity generally will be recognized for federal income tax purposes.[6]

An entity formed under state law that acts as a mere agent of its owners will not be treated as an entity separate from its owners for federal income tax purposes. In *Commissioner v. Bollinger*,[7] a corporation was treated as an agent of its owners where the corporation functioned merely as the nominal debtor and record title holder to mortgaged property. The shareholders entered into an agreement providing that (i) the corporation would hold title to the property as the shareholders' nominee and agent solely to secure financing, (ii) the shareholders had sole control and responsibility for the mortgaged property, and (iii) the shareholders were the principals and owners of the property during its financing, construction, and operation. The Supreme Court held that the shareholders, rather than the corporation, were the owners of the property because the relationship between the shareholders and the corporation was, in both form and substance, an agency with the shareholders as principals.

Similarly, the IRS concluded in Revenue Ruling 92-105[8] that an Illinois land trust was not to be treated as an entity separate from its owner for federal income tax purposes. A single taxpayer created an Illinois land trust and named a domestic corporation as trustee. The taxpayer transferred legal and equitable title to real property to the trust, subject to the provisions of an accompanying land trust agreement. Under the agreement, the taxpayer (i) retained exclusive control of the management, operation, rental, and sale of the real property, together with an exclusive right to the earnings and proceeds from the real property, and (ii) was required to file all tax returns, pay all taxes, and satisfy any other liabilities with respect to the real property. Under Illinois law, there is no limitation on liability of a beneficiary of an Illinois land trust. Because the trustee's only responsibility was to hold and transfer title to the property at the direction of the beneficiary, and because the beneficiary retained the direct obligation to pay liabilities and taxes related to the property, the right to manage and control the property, as well as any liability with respect to the property, the IRS concluded that the Illinois land trust could not rise to the level of

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4 Treas. Reg. § 301.7701-1(a)(1).
5 Treas. Reg. § 301.7701-1(a)(3).
6 *See Moline Props., Inc. v. Comm'r*, 319 U.S. 436 (1943).
7 485 U.S. 340 (1988).
8 1992-2 C.B. 204.

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an "entity" separate from the beneficial owner for federal income tax purposes.

In contrast, the IRS concluded in Revenue Ruling 2004-86[9] that the DST described therein was an entity that should be recognized as separate from its owners for federal income tax purposes. The IRS did so by looking to the powers, limitations, and benefits that Delaware law accords to a DST and its beneficial owners. Under Delaware law, creditors of a beneficial owner in a DST may not assert claims directly against the property held by a DST; they can seek payment only from the beneficial owner herself. The property of a DST is subject to attachment and execution with respect to liabilities of the DST as if the DST were a corporation. A DST may sue or be sued. The beneficial owners of a DST are entitled to the same limitation on personal liability stemming from actions of a DST that is extended to stockholders of a corporation organized under Delaware law. A DST may merge or consolidate with or into one or more statutory entities or other business entities. A DST can be formed for investment purposes. These powers and privileges afforded to a DST and the beneficial owners thereof, as well as the purpose of a DST, led the IRS to conclude that a DST is an entity separate from its owners for federal income tax purposes.[10]

Based on the authorities discussed above, the Trust should be recognized as an entity separate from the Beneficial Owners. The Trust should not be viewed merely as an agent of the Beneficial Owners because, unlike the trusts in *Bollinger* and Revenue Ruling 92-105, the Beneficial Owners have no right or power to direct in any manner the Trust or the Manager in connection with the operation of the Trust or the actions of the Trustees or the Manager.[11]

Specifically, the Beneficial Owners have no right or power to (i) contribute additional assets to the Trust (other than the initial contribution of cash in exchange for Interests), (ii) be involved in any manner in the operation or management of the Trust or its assets, (iii) cause the Trust to negotiate or renegotiate leases or loans, or (iv) cause the Trust to sell its assets and reinvest the proceeds thereof.[12]

Additionally, the Trust Agreement requires the Manager to cause the Trust to, among others: (i) not engage in any business or activity, other than the ownership or operation and maintenance of the Property (as defined in the Trust Agreement), (ii) not acquire or own any assets other than the Property and such incidental Personal Property (as defined in the Trust Agreement) as may be necessary for the ownership, leasing, maintenance and operation of the Property, (iii) not merge or consolidate with any Person (as defined in the Trust Agreement) or effectuate a Division (as defined in the Trust Agreement), or dissolve, terminate, liquidate in whole or in part, or transfer, Divide (as defined in the Trust Agreement) or otherwise dispose of all or substantially all of its assets, or change its legal structure, (iv) observe all organizational formalities and preserve its existence as an entity duly organized, validly existing and in good standing under the Applicable Law (as defined in the Trust Agreement) of the jurisdiction of its organization or formation, and not amend,

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9 2004-2 C.B. 191.
10 *Id*. (citing to Del. Code Ann. tit. 12, §§ 3801-3824).
11 *See* Trust Agreement at § 6.13.
12 *Id*.

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modify, terminate or fail to comply with the provisions of the Trust Agreement, (v) not own any subsidiary or make any investment in, any other Person, (vi) not commingle its assets with the assets of any other Person, (vii) not incur any Indebtedness (as defined in the Trust Agreement), secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Loan and customary unsecured trade payables incurred in the ordinary course of owning and operating the Property, and (viii) maintain its books, records, financial statements and bank accounts separate from those of its Affiliates (as defined in the Trust Agreement) and any constituent party and not list its assets as assets on the financial statement of any other Person, provided that the Trust's assets may be included in a consolidated financial statement of its Affiliates.[13] Further, the Trust Agreement requires the Manager to cause the Trust to (i) manage, control, dispose of, or otherwise deal with the Trust Estate (as defined in the Trust Agreement) in its discretion, and (ii) prepare or cause to be prepared separate financial statements.[14]

These requirements and prohibitions evidence an intent that the Trust be engaged in activities on its own behalf rather than as an agent of the Beneficial Owners. Lastly, because the Trust is organized as a DST, the Beneficial Owners may avail themselves only of the limited powers and privileges afforded to a beneficial owner under Delaware law. Thus, the Trust (as a DST) and the Beneficial Owners have substantially all of the same powers, limitations, and benefits as the trust that the IRS found to constitute an entity separate from its owners for federal income tax purposes in Revenue Ruling 2004-86. Accordingly, the Trust should be recognized for federal income tax purposes as an entity separate from the Beneficial Owners.

B. The Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c).

A trust arrangement generally will be classified as a "trust" rather than another form of business entity for federal income tax purposes if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of a business for profit.[15] A trust with a single class of ownership interests that provides no power to vary the investments of the trust is classified as an investment trust that is treated as a "trust" for federal income tax purposes.[16] A trust with multiple classes of ownership interests that otherwise meets the description of an investment trust also will be classified as a "trust" for federal income tax purposes if the existence of multiple classes of ownership interests is incidental to the purpose of facilitating the direct investment in the trust's assets.[17] As discussed in greater detail below, the Trust should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c) that is classified as a "trust"

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13 *See* Trust Agreement at § 3.2(a).
14 *See id.* at §§ 5.3 & 7.4.
15 Treas. Reg. § 301.7701-4(a).
16 Treas. Reg. § 301.7701-4(c)(1).
17 *Id*.

under Treasury Regulations Section 301.7701-4(a).

1. No power exists under the Trust Agreement for the Trustees or Manager to vary the investments of the Trust.

The courts and the IRS have considered the extent to which the powers granted under a trust arrangement exceed those required simply to protect and conserve property for the benefit of the beneficiaries. Two opinions issued by the Second Circuit on the same day generally are viewed as the leading judicial guidance on the distinction between a trust arrangement that meets the description of an investment trust and a trust arrangement granting the power to vary the investments held therein. Additionally, the IRS has issued several revenue rulings, the most relevant being Revenue Ruling 2004-86, that distinguish the limited arrangements that would constitute an investment trust from a broader grant of powers that prohibits classification as a "trust." In all material respects, we believe that the powers granted to the Trustees and Manager in the Trust Agreement are consistent with the limited scope of powers applicable to an investment trust described in Treasury Regulations Section 301.7701-4(c).

a. Authorities.

(i) Case Law.

In *Commissioner v. Chase National Bank*,[18] the court addressed whether a state-law trust arrangement should be classified as a "trust" for federal income tax purposes. In that case, the depositor purchased shares of the common stock of several corporations and made up "units" consisting of a number of shares of the common stock of each corporation. The "units" were deposited in a trust, and then certificates in the trust were sold to investors. The trustee was vested with all of the rights of ownership of the shares except that the depositor controlled the voting rights of the shares and the trust instrument governed and restricted the disposal of the shares. Under the terms of the trust instrument, property deposited into the trust was held until some disposition of it was made consistent with the terms of the trust instrument. Further, distributions of currently available funds were required. No purchases were to be made by the trustee by way of reinvestment of funds or otherwise. The Second Circuit found that the trust instrument "prevented the trusts from being, or becoming, more than what are sometimes called strict investment trusts." The court concluded that the trust required "that the trust property was to be held for investment and not to be used as capital in the transaction of business for profit like a corporation organized for such a purpose. This distinction is what makes the difference tax-wise."[19]

In another opinion released on the same day as *Chase National Bank*, the Second Circuit reached a different result. In *Commissioner v. North American Bond Trust*,[20] the court recognized that, although the trust arrangement was similar to the trust in *Chase National Bank*, the trust instrument was slightly different because it provided the depositor with the

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18 122 F.2d 540 (2d Cir. 1941).
19 *Id.* at 543.
20 122 F.2d 545 (2d Cir. 1941), *cert. denied* 314 U.S. 701 (1942).

power "in effect to change the investment of certificate holders at his discretion."[21] In making up new units, the depositor was not confined to the same bonds he had selected for the previous units. Additionally, the bonds of all units constituted a single pool in which each certificate holder shared according to his proportion of all the certificates issued. As a result, the money from new investors could be used to purchase new bond issues that would in turn reduce the existing certificate holders' interests in the old bond issues. The depositor thus could take advantage of market variations in a manner that could improve the investment of the original investors through dilution of the original investment. Based on these facts, the court held that the depositor "had power, though a limited power, to vary the existing investments of all certificate holders at will . . ."[22] and, accordingly, that the trust was treated as taxable as an association rather than as a fixed investment trust.

(ii) Revenue Ruling 2004-86.

The analyses and conclusions of the IRS in Revenue Ruling 2004-86 are consistent with the Second Circuit's holdings in the cases discussed above. Revenue Ruling 2004-86 considered the situation in which an individual (John) borrowed money from an unrelated lender (Bank) and signed a 10-year, interest-bearing nonrecourse note. John then used the proceeds of the loan to purchase rental real property, Blackacre, which was the sole collateral for the loan from the Bank. Immediately thereafter, John "net" leased the property to Mary for a term of 10 years.[23] Under the terms of the lease, Mary was required to pay all taxes, assessments, fees or other charges imposed on Blackacre by federal, state, or local authorities. In addition, Mary was required to pay all insurance, maintenance, ordinary repairs, and utilities relating to Blackacre. Mary was free to sublease Blackacre to anyone she chose.

The rent paid by Mary to John was a fixed amount that could be adjusted by a formula described in the lease agreement that was based upon a fixed rate or an objective index, such as an escalator clause based upon the Consumer Price Index, but adjustment to the rate or index was not within the control of any of the parties to the lease. The rent paid by Mary was not contingent upon Mary's ability to lease the property or on her gross sales or net profits derived from Blackacre.[24]

On the same date that John acquired Blackacre and leased it to Mary, John also formed a trust under Delaware law to which he contributed fee title to Blackacre after entering into the loan with the Bank and the lease with Mary. Upon contribution, the trust assumed John's rights and obligations under the loan from the Bank as well as under the lease with Mary. In accordance with the nonrecourse nature of the note, neither the trust nor any of

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21 *Id.*

22 *Id*. at 546.

23 The ruling does not indicate whether John is related to Mary, but given that the ruling states that Mary is not related to persons described in the ruling other than John, it can be assumed that she is related to him.

24 Although the lease from John to Mary is described in Revenue Ruling 2004-86 as a "net" lease, it is not clear whether the lessor or the lessee would be required to make capital improvements or major repairs to the property. Thus, the lease might be "double net," in which the lessor remains liable for certain capital improvements and repairs (such as repairs to the roof) instead of a "triple net" lease in which the lessee is responsible for the property in all events.

its beneficial owners were personally liable to the Bank for the loan, which continued to be secured by Blackacre. The trust agreement provided that interests in the trust were freely transferable; however, interests in the trust were not publicly traded on an established securities market. The trust would terminate on the earlier of 10 years from the date of its creation or the disposition of Blackacre, but would not terminate on the bankruptcy, death or incapacity of any owner, or the transfer of any right, title, or interest of the beneficial owners of the trust.

The trust agreement authorized the trustee to engage in only those activities central to the collection, investment, and distribution of income arising from Blackacre. The trust agreement authorized the trustee to use trust funds to establish a reasonable reserve to pay expenses incurred in connection with holding Blackacre. The trustee was required to distribute on a quarterly basis all available cash less such reserves to each beneficial owner in proportion to their respective interests in the trust. The trustee was required to invest cash received from Blackacre between each quarterly distribution and all cash reserves in short-term obligations, *i.e.*, maturing prior to the next quarterly distribution date, of (or guaranteed by) the United States or any agency or instrumentality thereof, and in certificates of deposit of any bank or trust company having a minimum stated surplus and capital. The trustee was required to hold such obligations until maturity. In addition to the right to a quarterly distribution of cash, each beneficial owner had the right to an in-kind distribution of its proportionate share of the property of the trust.

The trust agreement prohibited the trustee from engaging in activities beyond the scope of the collection, investment, and distribution of income arising from Blackacre. The trustee could not exchange Blackacre for other property, purchase assets other than the short-term investments described above, or accept additional contributions of assets (including money) for the trust from the beneficiaries. The trustee could not renegotiate the terms of the debt used to acquire Blackacre and could not renegotiate the lease with Mary or enter into leases with tenants other than Mary, except in the case of Mary's bankruptcy or insolvency.[25] In addition, the trustee could make only minor non-structural modifications to Blackacre, unless otherwise required by law. The trust agreement further provided that the trustee could engage in ministerial activities to the extent required to maintain and operate the trust under local law. In addition, the trustee could not enter into a written agreement with John or indicate to third parties that the trustee (or the trust) is his agent.

Immediately after John contributed his interest in Blackacre to the trust, he conveyed his entire interest in the trust to Dan and Michelle in exchange for interests in Whiteacre and Greenacre, respectively. Dan and Michelle were not related to the Bank or Mary (the lessee of Blackacre), and neither the trustee nor the trust was an agent of Dan or Michelle. Dan and Michelle desired to treat their acquired interests in the trust as replacement property pursuant to a Section 1031 like-kind exchange for their relinquished properties, Whiteacre

[25] Revenue Ruling 2004-86, in its statement of facts, expressly provides that "[t]he trustee may not renegotiate the terms of the debt used to acquire [the property] and may not renegotiate the lease with [the tenant] or enter into leases with tenants other than [the tenant], except in the case of [the tenant's] bankruptcy or insolvency." We believe the correct interpretation of this provision is that the exception applies to renegotiating the financing as well as new leases.

and Greenacre, respectively.

Neither the trust, nor the trustee entered into a written agreement with John, Dan, or Michelle creating an agency relationship and in dealings with third parties, neither the trust nor the trustee represented itself as an agent of John, Dan, or Michelle.

To determine whether the trust arrangement qualified as an investment trust classified as a "trust" for federal income tax purposes, the IRS examined whether the trust agreement granted the power to vary the investment of the trust's beneficial interest holders. Because the duration of the trust was the same as the duration of the loan and the lease that were assumed by the trust at the time of its formation, the financing and leasing arrangements of the trust and its assets (Blackacre) were fixed for the entire life of the trust. Furthermore, the trustee was permitted to invest only in short-term obligations that mature prior to the next quarterly distribution date and was required to hold these obligations until maturity. Because the trust agreement required that (i) any cash from Blackacre, and any cash earned on short-term obligations held by the trust between distribution dates, be distributed quarterly, (ii) no cash could be contributed to the trust by the beneficiaries, (iii) the trust could not borrow any additional money, and (iv) the disposition of Blackacre would result in the termination of the trust, the IRS concluded that there was no possibility of the reinvestment of money under the trust agreement.

In the Revenue Ruling's analysis, the IRS emphasized that the trustee's activities were limited to the collection and distribution of income. The trustee could not exchange Blackacre for other property, purchase assets other than short-term investments, or accept any additional contributions of assets (including money) for the trust. The trustee could not renegotiate the terms of the debt used to acquire Blackacre and could not renegotiate the lease with Mary or enter into leases with tenants other than Mary, except in the case of her bankruptcy or insolvency. In addition, the trustee could make only minor non-structural modifications to its property except to the extent required by law. The IRS observed that the trustee had none of the powers that would indicate intent to carry on a profit-making business. Accordingly, the IRS concluded that the trustee had no power to vary the investment of the beneficiaries of the trust, which is consistent with the description of an investment trust classified as a "trust" for federal income tax purposes.

The IRS expressly warned in Revenue Ruling 2004-86 that the trust arrangement would not have qualified as an investment trust, and therefore would not have been classified as a "trust," if the trustee had been given the power to do one or more of the following:

- dispose of Blackacre and acquire new property;
- renegotiate the lease with Mary (except in the case of Mary's bankruptcy or insolvency);
- enter into leases with a tenant other than Mary (except in the case of Mary's bankruptcy or insolvency);
- renegotiate the obligation used to purchase Blackacre (except in the case of Mary's bankruptcy or insolvency);
- receive capital contributions from the investors;

- invest cash received to profit from market fluctuations; or
- make more than minor non-structural modifications to Blackacre that were not required by law.

Thus, it is not sufficient that the trustee never takes any of the actions described above—the trustee must lack the power to undertake those actions. This aspect of Revenue Ruling 2004-86 is consistent with the case law in which a trust is classified in accordance with the powers that the trustee has under the trust agreement without regard to what actions, if any, the trustee has performed other than to conserve and protect the property of the trust.

(iii) Other Revenue Rulings.

The IRS also addressed the classification of trust arrangements in several other revenue rulings. Revenue Ruling 75-192[26] involved a trust agreement that required the trustee to invest cash on hand between quarterly distribution dates only in specified short-term obligations maturing prior to the next distribution date and to hold such obligations until maturity. The IRS concluded that, because the restrictions on the types of permitted investments limited the trustee to a fixed return similar to that earned on a bank account and eliminated any opportunity to profit from market fluctuations, the power to invest in such assets was not a power to vary the trust's investments.

Similarly, the IRS classified the trust arrangement described in Revenue Ruling 79-77,[27] which was formed to hold real property, as a "trust" for federal income tax purposes. The beneficiaries were required to approve all agreements entered into by the trustee and they were personally liable for the debts of the trust. The beneficiaries directed the trustee to enter into a 20-year lease that required the tenant to pay all taxes, assessments, fees, or other charges imposed on the property by federal, state, or local authorities. In addition, the tenant paid all insurance, maintenance, repairs, and utilities relating to the property. The trustee could determine whether to allow the tenant to make minor nonstructural alterations to the real estate, but only if the alterations would protect and conserve the property or were required by law. The trustee was empowered to institute legal or equitable actions to enforce any provisions of the lease.

The trust would terminate on the sale of substantially all of its assets or upon unanimous agreement of the beneficiaries. Based upon the above, the IRS classified the trust arrangement described in Revenue Ruling 79-77 as a "trust" for federal income tax purposes.

In contrast, the IRS concluded that the trust arrangement described in Revenue Ruling 78-371[28] was classified as a business entity rather than a "trust." Unlike the trust arrangement described in Revenue Ruling 79-77 that restricted the trustee to dealing with a single piece of property subject to a net lease, the trust arrangement in Revenue Ruling 78-371 expressly authorized the trustees to purchase and sell contiguous or adjacent real estate, to accept or

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26 1975-1 C.B. 384.
27 1979-1 C.B. 448.
28 1978-2 C.B. 344.

reject certain contributions of contiguous or adjacent real estate, and to raze or erect any building or other structure or make any improvements to the land contributed to the trust. The trustees were also empowered to borrow money and to mortgage and lease the trust property. The IRS concluded in Revenue Ruling 78-371 that the trustee's power to engage in extensive real estate operations and to reinvest the sales proceeds in financial products indicated that the trust arrangement was not formed merely to protect and conserve the trust's property and, thus, ruled that the trust was taxable as a business entity treated as a corporation.

The existence of a power to sell trust assets does not always give rise to a power to vary the trust's investments.[29] The courts and the IRS have concluded that even though a trustee may possess the power to sell trust assets under certain limited circumstances, such a trust arrangement can still qualify as an investment trust classified for federal income tax purposes as a "trust."[30] These authorities have clarified that, instead of the mere power to sell trust assets, it is the ability of the trustee to substitute new investments in order to take advantage of variations in the market that prohibit a trust arrangement from being treated as an investment trust classified as a "trust" for federal income tax purposes.

b. The Trust Agreement.

The powers and authority granted to the Trustees, the Manager, the Beneficial Owners, and the Trust in the Trust Agreement fall within the limited scope of the powers and authority that may be exercised by a trustee of an "investment trust." From and after the issuance of the Conversion Notice (as defined in the Trust Agreement), the Trust Agreement authorizes the Manager to (a) acquire the Property, receive cash sufficient to enable the Trust to acquire the Property pursuant to the Purchase Contract and subject to the Leases, and enter into the Master Lease and Loan; (b) collect rents under the Master Lease and make distributions thereof; (c) enter into any agreements for purposes of completing tax-free exchanges of real property with a "qualified intermediary" as defined in Treasury Regulations Section 1.1031(k)-1(g)(4); (d) notify the relevant parties of any defaults by them under the Transaction Documents (as defined in the Trust Agreement); (e) take any action which in the reasoned opinion of tax counsel to the Trust, should not have an adverse effect on either the treatment of the Trust as an "investment trust" within the meaning of Treasury Regulations Section 301.7701-4(c) or each Beneficial Owner as a "grantor" within the meaning of Section 671; and (f) solely to the extent necessitated by the impending bankruptcy or insolvency of a tenant, enter into a new lease with respect to the Property, renegotiate or refinance any debt secured by the Property (including, without limitation, the Loan), or amend the existing Leases (as defined in the Trust Agreement).[31]

Additionally, the Trust Agreement expressly denies the Manager any power or authority, from and after the issuance of the Conversion Notice, to take an action that would cause

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29 *Id*.

30 *See Comm'r v. N. Am. Bond Trust*, 122 F.2d 545 (2d Cir. 1941), *cert denied* 314 U.S. 701 (1942); *Pa. Co. for Insurances on Lives and Granting Annuities v. United States*, 146 F.2d 392 (3d Cir. 1944); *see also* Rev. Rul. 78-149, 1978-1 C.B. 448; Rev. Rul. 73-460, 1973-2 C.B. 424.

31 *See* Trust Agreement at § 5.3(b).

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the Trust to cease to be an investment trust described in Treasury Regulations Section 301.7701-4(c).[32] Moreover, the Trust agreement expressly denies the Trustees, the Manager, the Beneficial Owners and/or the Trust any power and authority to take any other action which would cause the Trust to be treated as a business entity for federal income tax purposes if the effect would be that such action or actions would constitute a power under the Trust Agreement to "vary the investment of the certificate holders" under Treasury Regulations Section 301.7701-4(c)(1) and Revenue Ruling 2004-86.[33] Furthermore, the Trust Agreement provides that none of the Trustees, the Manager, the Beneficial Owners, and the Trust shall have any power or authority to undertake any actions that are not permitted to be undertaken by an entity that is treated as a "trust" within the meaning of Treasury Regulations Section 301.7701-4 and not treated as a "business entity" within the meaning of Treasury Regulations Section 301.7701-3.[34] The Trust Agreement expressly prohibits the Manager from exercising any of the enumerated powers that are prohibited under Revenue Ruling 2004-86.[35] Finally, as noted above, the Beneficial Owners generally have no right or power to make decisions for, or to operate or manage, the Trust.[36]

We believe that the material provisions of the Trust Agreement that are not included in the trust arrangement described in Revenue Ruling 2004-86 are consistent with treating the Trust as an investment trust. These provisions include, but are not limited to: (i) the power to sell the Trust's corpus; (ii) the potential termination of the Trust through any event that would cause a Transfer Distribution; and (iii) the potential transfer of the Property to an Exchange Entity pursuant to the FMV Option provided in the Trust Agreement.

The power granted under the Trust Agreement to sell the Property should not be viewed as a power to vary the Trust's investments. Immediately after a sale of the Property, the sales proceeds must be distributed to the Beneficial Owners and the Trust will terminate.[37] The Manager and the Trustees do not have the power to purchase replacement investments with the proceeds from the sale of the Property.[38] Additionally, the power of the Manager to cause a sale of the Property is not unfettered, and it is the intent of the parties to the Trust Agreement that the Trust Estate (as defined in the Trust Agreement) will be held for at least two years.[39]

The sale of the Property under these circumstances is consistent with the objective of achieving an investment return on the assets comprising the initial trust estate when the Beneficial Owners acquired their interests therein. Because the sales proceeds cannot be reinvested by the Trustees or the Manager, the Trust Agreement does not confer the power to "better" the investments in the Trust by taking advantage of market variations. The assets that can be held by the Trust are restricted to the Property and the cash reserves that

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32 *See id.*
33 *See id.* at § 3.3(c).
34 *See id.*.
35 *See id.*
36 *See id.* at § 6.13.
37 *See id.* at §§ 7.3 & 9.1.
38 *See id.* at §§ 3.3(c) & 9.1.
39 *See id.* at § 9.3.

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accumulate between monthly distributions.[40] All cash reserves will be invested only in the types of debt instruments expressly permitted under Revenue Ruling 2004-86.[41] Accordingly, providing the Manager with the discretion concerning the timing and amount of the sale of the Property should not prevent the Trust from being treated as an investment trust that is classified as a "trust" for federal income tax purposes.

Although no direct authority exists regarding the use of a Transfer Distribution in connection with a fixed investment trust, we believe the Transfer Distribution as used in the Trust Agreement is consistent with treating the Trust as a fixed investment trust for federal income tax purposes. We believe that the events that would cause a Transfer Distribution are not in any way expected or viewed as likely to occur, which supports the passive and fixed nature of the Trust.

Moreover, the Trust has represented that no Transfer Distribution is currently intended or anticipated and that to the knowledge of the Depositor, Trust, and Manager, an event which would cause a Transfer Distribution with respect to any of the assets of the Trust is not expected and that it is the belief of the Depositor, Trust, and Manager that the occurrence of such an event would be unanticipated.

In addition, the FMV Option provided in the Trust Agreement should not be viewed as a power to vary the Trust's investments. In the case of the FMV Option, such a transfer is only exercisable for a purchase price equal to the then fair market value of a Beneficial Owner's Interest at such time in exchange for cash (or Units in an Exchange Entity, as the case may be), less applicable fees (if any).[42] The option price is tied directly to the fair market value as of the option exercise date as determined by an appraisal to be obtained at such time and is not nominal in relation to such value or discounted in any way.[43] The FMV Option is discussed in further detail in Part VI.E below.

Although distinctions exist between the Trust Agreement and the trust arrangement described in Revenue Ruling 2004-86, we believe these distinctions are not material. These distinctions include, but are not limited to: (i) the ongoing role of the Company or its affiliate as Manager functioning in a role similar to a trust manager; (ii) the Trust's potential acceptance of multiple contributions over time, rather than through a single contribution; (iii) the conversion of the Trust for tax purposes from a disregarded entity into an investment trust prior to the admission of purchasers; and (iv) an affiliate of the Company has executed certain limited guaranties with respect to the Loan. We believe that, like the material provisions discussed above, these provisions are consistent with, rather than contrary to, the analysis in Revenue Ruling 2004-86 for the reasons set forth below.

First, the Company's (or its affiliate's) ongoing role as the Manager should not be viewed as inconsistent with the analysis in Revenue Ruling 2004-86 or the case law because the Manager's powers are limited to those permitted to be exercised by a trustee of a fixed

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40 *See id.* at §§ 3.2(a)(2) & 7.2.
41 *See id.* at § 7.2.
42 *See id.* at §§ 10.1, 10.2 & 10.4.
43 *See id.* at § 10.4.

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investment trust.

Second, the Trust's acceptance of multiple contributions over time should not be viewed as raising additional capital (which is prohibited under Revenue Ruling 2004-86) because the capital of the Trust is not increasing. Both the terms and the amount of the Offering were established at the time the Trust Agreement was made. Additionally, the proceeds of the additional closings must (after payment for the costs of sale) be distributed to the Depositor.[44] Further, the fact that 100% of the Interests may be sold in multiple closings rather than in a single closing is driven by practical considerations and does not provide a basis for distinguishing a trust from a partnership. In addition, because the terms of the Offering are fixed, the additional contributions do not enable the Trust to benefit from market fluctuations over time.

Third, prior to conversion, the Trust is not recognized as an entity separate from the Depositor (or its affiliate) for federal income tax purposes.[45] Accordingly, the conversion feature of the Trust from a disregarded entity to a fixed investment trust should be viewed on its own as a mere formation of the Trust as a fixed investment trust in a manner that is not inconsistent with the analysis under Revenue Ruling 2004-86.

Fourth, we have considered the fact that an affiliate of the Company has executed a certain limited guaranty with respect to the Loan. Under the limited guaranty, the guarantor will be responsible for liabilities, costs, expenses, claims, losses or damages incurred by the Lender as a result of certain customary non-recourse carveout events and springing recourse liabilities with respect to the Loan. The occurrence or non-occurrence of these events will largely be within the Company's and its affiliates' control. Since this limited guaranty otherwise generally imposes liability only for actions which are within the control of the Company and its affiliates, it should not constitute an impermissible guaranty of the Loan for these purposes. Nor should these guaranties be viewed as an obligation of the guarantor and the Company to contribute additional capital to the Trust. Accordingly, we do not view the existence of such limited guaranty as inconsistent with Revenue Ruling 2004-86.

Because none of these provisions permit the Trustees or the Manager to vary the investments of the Trust in a manner that results in the Beneficial Owners improving their investment results based on variations in the market, we believe they are consistent with treating the Trust as a fixed investment trust.

c. The Master Lease.

Under the terms of the Master Lease, the Master Tenant has the right, at the Master Tenant's cost and expense, to make structural and non-structural alterations to the Property, provided that any such alteration or addition when completed is of a character that does not impair the usefulness or materially reduce the market value of the Property, or violate the

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44 *See id.* at § 6.14.

45 *See id.* at § 3.3(a).

terms of any sublease.[46] However, unlike the Master Tenant, at any time that the Trust is a DST the Trust shall not have the right, power, or ability to make more than minor non-structural modifications to the Property.[47] Under Revenue Ruling 2004-86, the trustee is prohibited from making more than minor non-structural modifications to the property. We believe, however, that the alteration rights provided to the Master Tenant under the Master Lease should not be attributed to the Trustees or the Manager and, therefore, are not inconsistent with treating the Trust as an investment trust for federal income tax purposes. The terms of the Master Lease do not provide the Trustees or the Manager with the unfettered power to make structural modifications to the Property; such alteration rights are held solely by the Master Tenant. Moreover, the cost of any such alterations or additions will be borne solely by the Master Tenant, not the Trust. Although not free from doubt, we believe that the alteration rights provided to the Master Tenant under the Master Lease should not violate the intent and purpose of Revenue Ruling 2004-86 or the underlying cases and rulings governing whether the Trustees or the Manager possess an impermissible right to vary the investments of the Trust.

2. Although the Trust has more than one class of ownership interests, the Trust nonetheless should be described as an investment trust classified as a "trust" because the Trust was formed to facilitate direct investment in the Property and the repurchase of the Class 2 Beneficial Interest is incidental to that purpose.

The oft-cited principle that the economic substance of a transaction, and not its mere form, governs the tax treatment of a given transaction is a well-established doctrine of federal tax law.[48] Treasury Regulations describing an investment trust apply this principle by providing that a trust arrangement that otherwise would be treated as an investment trust absent multiple classes of ownership interests nonetheless will be so treated if the multiple classes of ownership interests are incidental to the investment purpose of the trust.[49] The Treasury Regulations illustrate by example the types of different ownership rights that would be merely incidental to a trust's investment purpose.

The first example illustrates a circumstance whereby the existence of two classes of ownership interests in a trust is incidental to the trust's purpose of facilitating direct investment in a portfolio of residential mortgages.[50] The originator of the mortgage portfolio transferred the mortgages to a bank under a trust agreement, retained the class D

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46 *See* Master Lease at § 11.1.

47 *See* Trust Agreement at § 3.3(c).

48 *See*, *e.g.*, *Gregory v. Helvering*, 293 U.S. 465, 467, 470 (1935) (holding that "the reorganization attempted was without substance and must be disregarded"); *Comm'r v. Court Holding Co*., 324 U.S. 331, 334 (1945) (stating that "the incidence of taxation depends on the substance of a transaction. The tax consequences which arise from gains from a sale of property are not finally to be determined solely by the means employed to transfer legal title."); *Weiss v. Stearn*, 265 U.S. 242, 254 (1924) (stating that the court "must regard matters of substance and not mere form"); *Higgins v. Smith*, 308 U.S. 473, 477 (1940) (holding that the Government may look at "actualities" and disregard the form of a transaction if it is "unreal" or a "sham").

49 Treas. Reg. § 301.7701-4(c).

50 *See* Treas. Reg. § 301.7701-4(c)(2), Example 2.

beneficial ownership interest in the trust, and sold to investors the class C beneficial ownership interests in the trust. The two classes (class C and class D) are identical except that, in the event of a default on the underlying mortgages, the payment rights of the class D interests are subordinate to the rights of the class C certificate holders. The example observes that the interests of the beneficial holders in the aggregate, however, is substantially equivalent to an undivided ownership interest in the mortgage pool, coupled with a limited recourse guarantee running from the originator to the class C beneficial holders. Thus, the difference in rights between the class D and class C beneficial ownership interests is present simply to facilitate the investment by the class C beneficial owners in the trust's assets.

Likewise, another example illustrates a circumstance where multiple classes of ownership interests in a trust merely facilitate direct investment in the assets held by the trust.[51] Purchasers purchased trust certificates evidencing the right to receive a particular payment with respect to a specific bond that is included in a bond portfolio held by the trust. Because the purchase of stripped interests in bonds and coupons are treated as separate bonds for federal income tax purposes, the example states that the multiple classes simply provide each certificate holder with a direct interest in what would be treated as a separate bond. Because the certificate holders acquired an interest in the trust's assets that was similar to what the certificate holder could acquire by direct investment, the multiple classes of ownership interest will not prevent the trust arrangement from being treated as a trust rather than a business entity for federal income tax purposes.

It is possible that the IRS may assert that the existence and redemption of the Depositor's Class 2 Beneficial Interests upon the issuance of Class 1 Beneficial Interests gives rise to multiple classes of ownership interests,[52] even though the rights of a Class 2 Beneficial Owner otherwise will be identical to the rights of the Class 1 Beneficial Owners immediately upon a Purchaser investment in the Trust.[53] Consistent with the facts in the examples discussed above, however, we believe that the redemption right of the Depositor also should be treated as existing simply to facilitate the Beneficial Owners' investment in the Class 1 Beneficial Interests in the Trust.

Immediately upon the issuance of the Conversion Notice, which must occur prior to a Purchaser's investing in the Trust, the rights of a Class 2 Beneficial Owner (other than the redemption right) will be identical to the rights of the Class 1 Beneficial Owners.[54] The redemption simply replaces the Depositor's pro rata ownership interest in the Trust and its underlying assets with that of the Purchasers. This same result could be accomplished by either the Depositor selling directly to the Purchasers its Class 2 beneficial interest or the Depositor (or its affiliate) selling the Purchasers a direct interest in the Property followed by the Purchasers' contribution of same to the Trust. Because under either scenario the result is the same, and in neither situation is there any variation in the underlying assets owned by the Trust, we believe that the formal mechanism by which the Depositor's

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51 *See* Treas. Reg. § 301.7701-4(c)(2), Example 4.
52 *See* Trust Agreement at § 6.14.
53 *See id.* at §§ 6.12 & 6.13.
54 *See id.* at § 6.12.

interest in the Property is transferred to the Class 1 Beneficial Owners should not affect the tax consequences of the underlying transaction.

This analysis is consistent with the IRS position in Revenue Ruling 2004-86 that its conclusions would have been the same regardless of whether the trust property (Blackacre) had been sold directly to Dan and Michelle, and then contributed to the trust or, as in the facts in the ruling, contributed to the trust followed by a sale of an interest in the trust to Dan and Michelle. The rights of the Depositor with respect to the underlying assets in the Trust, *i.e.*, the Property, are no different vis-à-vis a Class 1 Beneficial Owner for as long as the Depositor retains any Class 2 Beneficial Interests.

The use of this formal mechanism of redemption is the economic equivalent of the Beneficial Owners purchasing a direct interest in the Property from the Depositor and then contributing the purchased interests in the Property to the Trust. Under these circumstances, it is our view that no impermissible multiple classes of ownership interests in the Trust should exist.

Based on the foregoing discussion, the Trust: (i) should be recognized as an entity separate from the Beneficial Owners for federal income tax purposes, and (ii) should be treated as an investment trust described in Treasury Regulations Section 301.7701-4(c). As a result, the Trust should be classified as a "trust" under Treasury Regulations Section 301.7701-4(a).

II. The Purchasers, as Beneficial Owners in the Trust, should be treated as "grantors" of the Trust.

A "grantor" of a trust includes any person that either creates a trust or directly or indirectly makes a gratuitous transfer of property, including cash, to a trust.[55] A gratuitous transfer to a trust includes a transfer of cash to the trust in exchange solely for an interest in the trust.[56] The term "grantor" also includes any person who acquires an interest in a trust from a "grantor" of the trust if the interest acquired is an interest in an investment trust described in Treasury Regulations Section 301.7701-4(c).[57]

The Beneficial Owners will transfer cash to the Trust in exchange solely for an interest therein. Because receiving an interest in the Trust is not treated as the receipt of property, the Beneficial Owners should be treated as making a gratuitous transfer to the Trust. Thus, the Beneficial Owners should be treated as "grantors" of the Trust.

III. As "grantors" of the Trust, the Beneficial Owners should be treated as owning an undivided fractional interest in the Property for federal income tax purposes.

A "grantor" that is treated as the owner of an undivided fractional interest of the assets in

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55 Treas. Reg. § 1.671-2(e)(1).
56 Treas. Reg. § 1.671-2(e)(1)-(2).
57 Treas. Reg. § 1.671-2(e)(3).

a trust under the provisions of subchapter J of the Code also is treated as owning an undivided fractional interest of such assets for all federal income tax purposes.[58] Sections 673 through 677 set forth rules for determining when the grantor or another person is treated as the owner of any portion of a trust.[59] Under Section 673, a grantor is treated as owning any portion of a trust in which the grantor has a reversionary interest in either the trust assets or the income therefrom if, as of the inception of that portion of the trust, the value of such interest exceeds 5% of the value of such portion. Under Section 677, a grantor is treated as the owner of any portion of a trust whose income, without the approval or consent of any adverse party is, or in the discretion of the grantor, a non-adverse party, or both, may be distributed to the grantor or held or accumulated for future distribution to the grantor.[60]

Revenue Ruling 2004-86 also considered whether the purchase of interests in the trust arrangement by Dan and Michelle would be treated as an acquisition of interests in the real property (Blackacre) owned by the trust (in exchange for their interests in Whiteacre and Greenacre that were conveyed to John). The IRS concluded that Dan and Michelle should be treated as grantors of the trust when they acquire their interests in the trust from John, who had formed the trust. The IRS also concluded that, because Dan and Michelle have the right to distributions of all the income of the trust attributable to their undivided fractional interests, they should be treated under Section 677 as the owners of an aliquot portion of the trust, and all income, deductions, and credits attributable to that portion are includible by Dan and Michelle in computing their taxable income. Because the owner of an undivided fractional interest of a trust is considered to own the trust assets attributable to that interest for federal income tax purposes, the IRS treated Dan and Michelle as each owning an undivided fractional interest in Blackacre for federal income tax purposes.

The IRS's treatment of Dan and Michelle as the owners of the trust's property for purposes of Section 1031 is consistent with the treatment by the IRS of grantors of a trust for Section 1033 purposes. Section 1033 is similar to Section 1031 in that it confers nonrecognition treatment on the involuntary conversion of property into similar or related-use property.[61] In several rulings, the IRS concluded that, because the owner of a grantor trust is treated as the owner of the trust's property for federal income tax purposes, whether replacement property was purchased by a grantor or the grantor's trust is of no consequence for Section 1033 purposes.[62]

Several of the rights accorded, directly and indirectly, under the Trust Agreement to the Beneficial Owners as "grantors" should result in the Beneficial Owners being treated as owning direct interests in the Property for federal income tax purposes. Generally, the Beneficial Owners have the right to the distribution of all income received by the Trust

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58 *See* Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 85-45, 1985-1 C.B. 183; and Rev. Rul. 85-13, 1985-1 C.B. 184; *see also* Treas. Reg. § 1.1001-2(c), Example 5.

59 Treas. Reg. § 1.671-2(a).

60 Code § 677(a). For purposes of this provision, a trustee who lacks an economic interest in the assets of a trust is not an adverse party. *See* Treas. Reg. § 1.672(a)-1(a).

61 *See* Code § 1033(a).

62 *See* Rev. Rul. 88-103, 1988-2 C.B. 304; Rev. Rul. 70-376, 1970-2 C.B. 164.

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without the approval, consent, or exercise of discretion by any person.[63] Additionally, the Beneficial Owners have a total reversionary interest in the assets of the Trust. These rights of the Beneficial Owners as grantors should result in the Beneficial Owners being treated as owning direct interests in the Trust's assets (*i.e.*, the Property) under Sections 673 and 677 and therefore also for all federal income tax purposes, including Section 1031.

IV. The Interests should not be treated as securities for purposes of Section 1031.

If the Interests were determined to be securities for purposes of Section 1031, an investor would recognize gain, if any, on the exchange of property for an Interest to the extent the fair market value of the Interest received in the exchange exceeded the adjusted tax basis of the relinquished property.[64] For the reasons discussed below, the Interests should not constitute securities for purposes of Section 1031.[65]

A. Legislative History of Section 1031.

The exclusion of securities from Section 1031 was added to the predecessor to Section 1031 in 1923.[66] The legislation amended the predecessor to Section 1031 to include the following italicized language:

> When any such property held for *investment or for* productive use in trade or business (not including stock-in-trade or other property held primarily for sale, *and in the case of property held for investment not including stock, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest)*, is exchanged for property of a like kind or use.

The reason for the addition of the language above was to prevent taxpayers from using the predecessor to Section 1031 to exchange investment securities, such as stocks and bonds, on a tax-free basis. A letter from the Secretary of Treasury dated January 13, 1923, provided as follows:

> The revenue act of 1921 provides, in section 202, for the exchange of property held for investment for other property of a like kind without the realization of taxable income. Under this section, a taxpayer who purchases a bond of $1,000 which appreciates in value may exchange that bond for another bond of the value of $1,000, together with $100 in cash (the $100 in cash representing the increase in the value of the bond while held by the taxpayer), without the realization of taxable income. This provision of the act is being widely abused. Many brokers, investment houses and bond houses have established

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63 *See* Trust Agreement at § 7.2.

64 Code § 1001.

65 Although the Interests may be "securities" for purposes of the Securities Act of 1933 or the Securities Exchange Act of 1934, it should be noted that this is not the relevant test for determining whether the Interests are securities for federal income tax purposes but, rather, only the starting point for the analysis.

66 *See*, *e.g.*, H.R. 13774, Public No. 545, 67th Cong., 4th Sess., ch. 294.

> exchange departments and are advertising that they will exchange securities for their customers in such a manner as to result in no taxable gain. Under this section, therefore, taxpayers owning securities which have appreciated in value are exchanging them for other securities and at the same time receiving a cash consideration without the realization of taxable income, but if the securities have fallen in value since acquisition will sell them and in computing net income deduct the amount of the loss on sale. This result is manifestly unfair and destructive of the revenues. The Treasury accordingly urges that the law be amended so as to limit the cases in which securities may be exchanged for other securities without the realization of taxable income to those cases where the exchange is in connection with the reorganization, consolidation or merger of one or more corporations.[67]

In response to the concern expressed in the letter above, Congress amended the predecessor to Section 1031 to exclude securities.[68]

B. Use of the term "securities" in the Code.

The term "securities" is not defined in either Section 1031 or the Treasury Regulations promulgated thereunder. The term "securities" is narrowly defined in other Sections of the Code, including the following:

- Section 165(g) (defining the term "security" as "(A) a share of stock in a corporation; (B) a right to subscribe for, or to receive, a share of stock in a corporation; or (C) a bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form . . . .");
- Section 402(e)(4)(E)(i) (providing that "[t]he term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.");
- Former Section 1083(f) (stating that "the term 'stock or securities' means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures and evidences of indebtedness including any evidence of an interest in or right to subscribe to or purchase any of the foregoing.");[69] and
- Section 1236(c) (providing that "the term 'security' means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe

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67 H.R. REP. NO. 67-1432, at 1-2 (1923); S. REP. NO. 67-1113, at 1-2 (1923), *reprinted in* 1939-1 C.B. (Part 2) 845-46.

68 H.R. 13774, Public No. 545, 67th Cong., 4th Sess., ch. 294.

69 Code § 1083 was repealed by the Gulf Opportunity Zone Act of 2005. *See* Pub. L. No. 109-135, § 402(a)(1), 119 Stat. 2577, 2610 (2005).

to or purchase any of the foregoing.").

The Interests clearly should not be considered "securities" under any of the above definitions. Although the foregoing Sections are not expressly applicable for purposes of Section 1031, the IRS has indicated that the scope of the term "securities" (as used in such other Sections) can be relevant by analogy for purposes of Section 1031.[70]

In addition, there are instances in the Code where a term is defined by specific reference to federal securities law, such as the following examples:

- Section 67(c)(2)(B)(i)(I) ("continuously offered pursuant to a public offering (within the meaning of Section 4 of the Securities Act of 1933, as amended) . . .");
- Section 83(c)(3) ("[s]o long as the sale of property at a profit could subject a person to suit under Section 16(b) of the Securities Exchange Act of 1934 . . .");
- Section 162(m)(2) ("the term 'publicly held corporation' means any corporation which is an issuer . . . the securities of which are required to be registered under Section 12 of [the Securities Exchange Act of 1934]");
- Section 277(b)(3) (". . . which for each day of any taxable year is a national securities exchange subject to regulation under the Securities Exchange Act of 1934 or a contract market subject to regulation under the Commodity Exchange Act . . ."); and
- Section 409(e)(4)(A) (". . . a class of securities required to be registered under Section 12 of the Securities Exchange Act of 1934 . . .").

In *Plow Realty Co. of Texas v. Commissioner*,[71] the Tax Court addressed whether two mineral deeds, each conveying an undivided one-eighth interest in oil, gas, sulphur, and other minerals, were "securities" for purposes of determining whether the gains from such conveyances constituted "personal holding company income" under Section 502(b) of the Internal Revenue Code of 1939. If such gains were "securities," and hence, "personal holding company income" as defined under the Internal Revenue Code of 1939, the gains would be subject to a 25% surtax.

The taxpayer contended that the mineral deeds were conveyances of an interest in real estate and not a sale of "securities." The Tax Court agreed:

> Under securities and exchange acts mineral deeds and assignments of mineral rights have been held to be "securities." But here we have a revenue statute and not a question of the exercise of police power by a state or the National Government for the protection of the public. The respondent's regulations define "stock or securities" in broad and

[70] *See*, *e.g.*, I.R.S. Gen. Couns. Mem. 35,242 (Feb. 16, 1973).
[71] 4 T.C. 600 (1945).

> comprehensive language, but even so, we do not think the instruments herein can be classified as securities under the revenue act. What we have here is two deeds of conveyance evidencing two private sales of undivided interests in realty, under which title passed to and became vested in the grantees. Such sales do not, in our opinion, under the circumstances here constitute a sale of securities under respondent's regulations.[72]

Based on this reasoning, the Tax Court held that the gains realized by the taxpayer upon the conveyance of the mineral deeds were not "personal holding company income" because the mineral deeds did not convey "securities."

In General Counsel Memorandum 35242,[73] the IRS stated that "[a]lthough [the definitions under Sections 165(g), 402(a)(3), 1083(f), and 1236(c)] do not control for purposes of Code §1031, we believe it persuasive that Congress has consistently defined the term 'securities' in a limited sense." Accordingly, the IRS determined that an exchange of whisky receipts for other whisky receipts qualified for nonrecognition treatment under Section 1031(a).

Equally important, General Counsel Memorandum 35242 determined that the whisky receipts were not "securities" for purposes of Section 1031 even though the Securities and Exchange Commission believed such receipts constituted securities under the Securities Act of 1933 and the Securities Exchange Act of 1934. This conclusion is consistent with the Tax Court's position that property which constitutes a security under applicable securities laws is not necessarily a "security" for purposes of a specific provision of the Code.[74] The IRS further noted, in the proposed revenue ruling attached to the general counsel memorandum, that the "securities" exception to nonrecognition treatment was added to "preclude brokers, investment houses, and bond houses from arranging the tax free exchanges of appreciated securities for their clients."[75]

Based on the narrow scope of the definition of "securities" for various Code provisions, the IRS endorsement of this narrow definition in the Section 1031 context, and the Tax Court's conclusion that the definition of a "security" under applicable securities laws is irrelevant, we believe that the Interests should not be treated as securities for purposes of Section 1031.

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72 *Id.* at 608 (internal citation omitted).

73 I.R.S. Gen. Couns. Mem. 35,242 (Feb. 16, 1973).

74 *Plow Realty Co.*, 4 T.C. at 608-09 (concluding that mineral deeds were not securities for purposes of the predecessor to Code § 543 (personal holding company income) despite the fact that they were securities under securities and exchange acts).

75 I.R.S. Gen. Couns. Mem. 35,242 (Feb. 16, 1973), (citing S. REP. NO. 67-1113 (1927), *reprinted in* 1939-1 (Part 2) C.B. 845-46).

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V. The Interests should not be treated as certificates of trust or beneficial interests for purposes of Section 1031.

The nonrecognition rules of Section 1031 do not apply to an exchange of certificates of trust or beneficial interests.[76] However, as concluded above, the Trust should be treated as a fixed investment trust within the meaning of Treasury Regulations Section 301.7701-4(c). Therefore, the Trust should be considered to be a disregarded entity and the Beneficial Owners should be viewed as owning an underlying fractional interest in the Property (as opposed to an interest in the Trust itself for federal income tax purposes) because, for federal income tax purposes, the Trust is disregarded and viewed as if it does not exist. Thus, the Interests should not be viewed as prohibited certificates of trust or beneficial interests for purposes of Section 1031.

VI. The Master Lease should be treated as a true lease and not a financing for federal income tax purposes.

A. Generally.

We believe that the Master Lease has the hallmarks of a bona fide, true lease and, therefore, should be treated as such for federal income tax purposes. The economic substance of a leasing transaction is analyzed in light of all of the facts and circumstances.[77] Transactions structured as leases may be recharacterized for federal income tax purposes to reflect their economic substance.[78] For example, in appropriate circumstances a purported lease may be recharacterized as a conditional sales contract. Recharacterization of the Master Lease as a financing or other arrangement for federal income tax purposes would have significant adverse tax consequences. For example, if the Master Lease were recharacterized as a financing, then for federal income tax purposes, the Beneficial Owners would be treated as having sold the acquired Interests in the Property to the Master Tenant and the Master Tenant would be treated as the owner of the Property for federal income tax purposes. As a result, a Purchaser attempting to participate in a Section 1031 Exchange would not be treated as having received qualified replacement property when the Purchaser acquired his or her Interest because the Purchaser would be treated as having made a loan to the Master Tenant. As the owner of the Property for federal income tax purposes, the Master Tenant, rather than the Beneficial Owners, would be entitled to claim any depreciation deductions. To the extent that payments of "rent" were recharacterized as payments of interest and principal, the payment of principal would not be treated as the receipt of taxable income

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[76] Treas. Reg. § 1.1031(a)-1(a)(1)(v); former Code § 1031(a)(2)(E) (1984). As noted above, although the specific language providing for non-qualification (for Section 1031 purposes) of interests in a partnership, securities, certificates of trust, and beneficial interests has been eliminated from the statute, an analysis of these terms remains relevant to the analysis and conclusion set forth herein that the Beneficial Owners should be treated as owning qualifying real property for federal income tax purposes.

[77] STAFF OF THE JOINT COMM. ON TAX'N, JCX-18-10, TECH. EXPLANATION OF THE REVENUE PROVISIONS OF THE "RECONCILIATION ACT OF 2010," AS AMENDED, IN COMBINATION WITH THE "PATIENT PROT. AND AFFORDABLE CARE ACT" 153 n.350 (2010) [hereinafter "**Joint Committee Report**"].

[78] *See*, *e.g.*, *Frank Lyon Co. v. United States*, 435 U.S. 561 (1978), *rev'g* 536 F.2d 746 (8th Cir. 1976); *Rice's Toyota World*, *Inc. v. Comm'r*, 752 F.2d 89 (4th Cir. 1985); *Helvering v. F. & R. Lazarus & Co.*, 308 U.S. 252 (1939); *Emershaw v. Comm'r*, T.C. Memo 1990-246, *aff'd* 949 F.2d 841 (6th Cir. 1991).

by the Purchasers and would not be deductible by the Master Tenant. All of these, and other, consequences could have a significant impact on the federal income tax consequences of an investment in the Property.

B. Revenue Procedure 2001-28.

It is possible that the Master Lease could be treated as a financing rather than a true lease for federal income tax purposes. There is, however, no bright-line test for making this determination. This issue will be analyzed in the context of Revenue Procedure 2001-28,[79] which sets forth guidelines for obtaining an advance ruling that a lease constitutes a true lease (and not a financing) for federal income tax purposes, as well as the federal income tax case law governing this area.

In recent cases, courts have conducted a two-part analysis to determine whether a purported lease should be respected for federal income tax purposes, including an analysis of whether (i) the purported lease should be disregarded as a "sham" transaction and, if not, (ii) whether the lessor retained a sufficient amount of the traditional benefits and burdens of ownership of the property. A leasing transaction will be deemed a sham, and thus disregarded, if it was entered into for the sole purpose of obtaining tax benefits and the transaction is devoid of any reasonable opportunity for economic profit (exclusive of tax benefits). A transaction is not a sham if there is either a business purpose or economic substance to the transaction.[80] The business purpose test has been described as a subjective analysis examining the motivations for entering into a transaction,[81] while the economic substance analysis is described as an objective analysis focusing on whether the transaction has a reasonable opportunity of producing a profit (exclusive of tax benefits).[82] If a transaction is shown not to be a sham, the lessor must additionally retain sufficient benefits and burdens of ownership to be regarded as the owner for federal income tax purposes.[83] The essence of the courts' benefits and burdens analysis is an examination of whether the purported lessor is subject to the risks of ownership (*i.e.*, downside) and will enjoy the profits of the property (*i.e.*, upside).

Revenue Procedure 2001-28[84] sets forth advance ruling guidelines for "true lease" status. The Trust has not sought, and does not expect to request, a ruling from the IRS under Revenue Procedure 2001-28. These ruling guidelines provide certain criteria that the IRS

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79 2001-1 C.B. 1156.

80 *See Rice's Toyota World*, 752 F.2d at 91; *Van Roekel v. Comm'r*, T.C. Memo 1989-74, *appeal dismissed* 905 F.2d 80 (5th Cir. 1990); *Offermann v. Comm'r*, T.C. Memo 1988-236; *L. W. Hardy Co. Inc. v. Comm'r*, T.C. Memo 1987-63; *Greenbaum v. Comm'r*, T.C. Memo 1987-222; *Torres v. Comm'r*, 88 T.C. 702 (1987); *Mukerji v. Comm'r*, 87 T.C. 926 (1986).

81 *Levy v. Comm'r*, 91 T.C. 838, 854 (1988).

82 *Id. at* 838; *Rubin v. Comm'r*, T.C. Memo 1989-484; *Moser v. Comm'r*, T.C. Memo 1989-142, *aff'd* 914 F.2d 1040 (8th Cir. 1990); *Van Roekel*, T.C. Memo 1989-74; *Offermann*, T.C. Memo 1988-236; *Larsen v. Comm'r*, 89 T.C. 1229 (1987), *aff'd in part, rev'd in part sub nom. Casebeer v. Comm'r.*, 909 F.2d 1360 (9th Cir. 1990).

83 *See Emershaw*, T.C. Memo 1990-246; *Rubin*, T.C. Memo 1989-484; *Pearlstein v. Comm'r*, T.C. Memo 1989-621; *Moser*, T.C. Memo 1989-142; *Van Roekel*, T.C. Memo 1989-74; *Levy*, 91 T.C. at 860.

84 2001-1 C.B. 1156. The guidelines were designed with equipment, rather than real estate, leveraged leases as a primary concern.

will require to be satisfied in order to issue a private letter ruling that a lease is a true lease for federal income tax purposes. In the event of an examination by the IRS, the IRS and, ultimately, the courts of applicable jurisdiction, would consider these ruling guidelines, together with existing cases and other rulings, in determining whether the Master Lease qualifies as a true lease for federal income tax purposes. However, we do not believe that strict compliance with Revenue Procedure 2001-28 is required to conclude that the Master Lease should be characterized as a true lease for federal income tax purposes. Rather, we believe that satisfying most of the material ruling guidelines should be sufficient for this purpose. Accordingly, the following discussion reviews the factors considered relevant by the IRS under Revenue Procedure 2001-28 guidelines, as well as the relevant case law.[85]

C. Minimum Unconditional At-Risk Investment.

Under the Revenue Procedure, the lessor must make a minimum unconditional "at risk" investment in the property (the "**Minimum Investment**") when the lease begins, must maintain such Minimum Investment throughout the entire lease term, and such Minimum Investment must remain at the end of the lease term. The Minimum Investment must be an equity investment (the "**Equity Investment**") that includes only consideration paid, and personal liability incurred, by the lessor to purchase the property. The net worth of the lessor must be sufficient to satisfy any such personal liability.[86] We believe that satisfying the required Minimum Investment pursuant to the guidelines is also indicative of a lessor's retention of downside risk as required under the framework established by the case law.[87]

1. Initial Minimum Investment.

When the property is first placed in service or use by the lessee, the Minimum Investment must be equal to at least 20% of the cost of the property. The Minimum Investment must be unconditional: that is, the lessor must not be entitled to a return of any portion of the Minimum Investment through any arrangement, directly or indirectly, with the lessee, a shareholder of the lessee, or any party related to the lessee (within the meaning of Section 318 of the Code) (the "**Lessee Group**").[88] Each of the Beneficial Owners will acquire his or her Interest in the Property (through the Trust) for an unconditional Equity Investment equal to approximately 52.9% of the aggregate cost of his or her Interest in the Property. None of the Beneficial Owners will be entitled to demand the return of his or her Equity Investment from the Trust, or any tenant, or any party related to such parties, either through a put option, a guaranty of residual value, or other arrangement with such persons.

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85 The factors enumerated in the case law are relevant to the guidelines as set forth in Revenue Procedure 2001-28; thus, for purposes of this analysis, we refer to the case law factors within the framework of the guidelines.

86 Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.01.

87 For example, courts have treated a lessor as the owner of property when the lessor has made cash investments substantially smaller than the 20% required by the Revenue Procedure 2001-28 guidelines. *See*, *e.g.*, *Emershaw*, T.C. Memo 1990-246 (6% investment); *Greenbaum v. Comm'r*, T.C. Memo 1987-222 (7% investment); *L. W. Hardy Co. Inc. v. Comm'r*, T.C. Memo 1987-63 (17% investment).

88 Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.01(1).

2. Maintenance of Minimum Investment.

The Minimum Investment must remain equal to at least 20% of the cost of the property at all times throughout the entire lease term. That is, the excess of the cumulative payments required to have been paid by the lessee to or for the lessor over the cumulative disbursements required to have been paid by or for the lessor in connection with the ownership of the property must never exceed the sum of (i) any excess of the lessor's initial Equity Investment over 20% of the cost of the property plus (ii) the cumulative pro rata portion of the projected profit from the transaction (exclusive of tax benefits).[89] The Trust and the Manager have represented to us that they anticipate that the equity invested in the Property by the Beneficial Owners will equal at least 20% of the cost of the Property to the Trust at all times throughout the term of the Master Lease (disregarding fluctuations in value) and that, to their knowledge, no plan or intention exists to reduce such equity through distributions or refinancings of the Property or otherwise. It is impossible, however, to determine at this time whether the economic performance of the Property will comply with the above-stated requirement of Revenue Procedure 2001-28. Accordingly, this estimation alone neither weighs in support nor against characterization of the Master Lease as a true lease for federal income tax purposes.

3. Residual Investment.

Under Revenue Procedure 2001-28, the fair market value of the property at the end of the lease term must be estimated to be an amount equal to at least 20% of the original cost of the property. For this purpose, fair market value must be determined (i) without including in such value any increase or decrease for inflation or deflation during the lease term, and (ii) after subtracting from such value any cost to the lessor for removal and delivery of possession of the property to the lessor at the end of the lease term. In addition, under Revenue Procedure 2001-28, a reasonable estimate of the remaining useful life of the property at the end of the lease term must equal the longer of one year or 20% of the originally estimated useful life of the property.[90] The Trust and the Manager have represented that the Property is expected to have a value at the end of the Master Lease term or the anticipated time of sale that is at least 20% of the original cost of the Property and that the financial projections of the value of the Property at the end of the Master Lease term or the anticipated time of sale are not based on increases or decreases in inflation or deflation during the Master Lease term and reflect the anticipated costs of sale. In addition, the Trust and the Manager have represented that a reasonable estimate of the remaining useful life of the Property at the end of the Master Lease term should equal the longer of one year or 20% of the originally estimated useful life of the Property.

D. Master Lease Term and Renewal Options.

For purposes of determining whether the various requirements imposed by Revenue Procedure 2001-28 are satisfied, the lease term must include all renewal or extension periods except renewals or extensions at the option of the lessee at fair rental value at the

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89 *Id*. at § 4.01(2).
90 *Id*. at § 4.01(3).

time of such renewal or extension.[91] Because both the Equity Investment of the Beneficial Owners and the Master Lease will terminate at the time of the anticipated sale, the anticipated time of sale might be used as the measuring period for purposes of determining the terms of the Master Lease. One could also argue that the entire term of the Master Lease should be used as the applicable measuring period in determining whether the various requirements of Revenue Procedure 2001-28 have been met. We have considered each of these alternatives in reaching our conclusions herein concerning the application of Revenue Procedure 2001-28.

E. Purchase and Sale Rights.

Under Revenue Procedure 2001-28, no member of the Lessee Group may have a contractual right to purchase the property from the lessor at a price less than its fair market value at the time the right is exercised.[92] When the property is first placed in service or use by the lessee, the lessor may not have a contractual right to cause any party to purchase the property.[93] The lessor must also not have any present intention to acquire such a contractual right. A provision that permits the lessor to abandon the property to any party will be treated as a contractual right of the lessor to cause such party to purchase the property.[94] Despite this prohibition, both the IRS and the courts have recognized leases utilizing fixed-price purchase options as leases for federal income tax purposes. A number of courts have concluded that a true lease existed even when the lessee had the right to purchase the leased property at a fixed price so long as the purchase price represented an estimate of the fair market value of the leased property as of the option date, or was not nominal in relation to such value.[95] The Master Lease and other DST Transaction Documents do not provide the Trust with a put option or the right to abandon the Property to any party.

In the present case, the FMV Option provided to an Exchange Entity under the Trust Agreement is only exercisable for a purchase price equal to the then fair market value of a Beneficial Owner's Interest at such time in exchange for cash (or Units in an Exchange Entity, as the case may be), less applicable fees (if any). Although not free from doubt, in light of the case law and rulings discussed above, the FMV Option provided under the Trust Agreement should not cause the Master Lease to fail to be a true lease for federal income

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91 *Id*. at § 4.02.

92 *Id*. at § 4.03.

93 *Id*.

94 *Id*.

95 *See L. W. Hardy Co. Inc. v. Comm'r*, T.C. Memo 1987-63; *Transamerica Corp. v. United States*, 15 Cl. Ct. 420 (1988), *aff'd* 902 F.2d 1540 (Fed. Cir. 1990); *Cooper v. Comm'r*, 88 T.C. 84 (1987); *Belz Inv. Co. v. Comm'r*, 72 T.C. 1209 (1979), *aff'd* 661 F.2d 76 (6th Cir. 1981), *acq.* 1980-2 C.B. 1; *Northwest Acceptance Corp. v. Comm'r*, 58 T.C. 836 (1972), *aff'd* 500 F.2d 1222 (9th Cir. 1974); *Lockhart Leasing Co. v. Comm'r*, 54 T.C. 301 (1970), *aff'd* 446 F.2d 269 (10th Cir. 1971); *see also* STAFF OF THE JOINT COMM. ON TAX'N, JCS-41-84, GEN. EXPLANATION OF THE DEFICIT REDUCTION ACT OF 1984 AT 37 (1984) ("Where [a] purchase option was more than nominal but relatively small in comparison with fair market value, the lessor was viewed as having transferred full ownership because of the likelihood that the lessee would exercise the option.").

tax purposes, as the FMV Option represents an estimate of the fair market value as of the option date and is not nominal in relation to such value.[96]

F. Investment by Lessee.

No part of the cost of the property or the cost of improvements, modifications, or additions to the property ("**Improvements**"), may be furnished by any member of the Lessee Group. If the lease requires the lessee to maintain and keep the property in good repair during the term of the lease, ordinary maintenance and repairs performed by a member of the Lessee Group will not constitute an Improvement.[97]

While the Master Tenant may incur some obligations to construct improvements under one or more subleases, this should not affect the characterization of the Master Lease for federal income tax purposes. Under the Master Lease, the Master Tenant may be required to pay for certain tenant improvements associated with the Property. For example, the Master Tenant must, throughout the term of the Master Lease, take good care of the Property, put, keep, and maintain the Property and every part thereof in a condition substantially the same as the condition of the Property as of the commencement of the Master Lease, and make all necessary repairs of whatsoever kind or nature.[98] We believe that any such improvements required to be constructed by the Master Tenant under the Master Lease are in the nature of maintenance and repairs consistent with ordinary commercial practice and, therefore, should not prevent the Master Lease from qualifying as a true lease for federal income tax purposes.[99]

G. No Lessee Loans or Guarantees.

No member of the Lessee Group may lend to the lessor any of the funds necessary to acquire the property, or guarantee any indebtedness created in connection with the acquisition of the property by the lessor.[100] A guarantee by any member of the Lessee Group of the lessee's obligation to pay rent, properly maintain the property, or pay insurance premiums or other similar conventional obligations of a net lease does not constitute a guarantee of the indebtedness of the lessor.[101] There are no guarantees under the Master Lease or other DST Transaction Documents that violate this requirement.[102]

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96 *See* Trust Agreement at §§ 10.1 & 10.4.

97 Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.04.

98 *See* Master Lease at § 6.1.

99 In addition, in its private ruling practice under Revenue Procedure 75-21 (the predecessor to Revenue Procedure 2001-28, which included a similar requirement), the IRS has generally concluded that the making of an improvement by a tenant not permitted under this guideline will not affect the true lease analysis. *See* I.R.S. Priv. Ltr. Rul. 8712025 (Dec. 18, 1986); *see also* I.R.S. Gen. Couns. Mem. 36,727 (May 13, 1976) ("We, too, have found no statutory or judicial law reclassifying a lease transaction as a purchase because of lessee improvements.").

100 Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.05.

101 *Id*.

102 DBSO, an affiliate of the Company, has provided the Lender with a limited, non-recourse carveout guaranty under which it will be responsible for liabilities, costs, expenses, claims, losses, or damages incurred by the Lender as a result of certain non-recourse carve out events over which they and their

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H. Profit Requirement.

The lessor must expect to receive a profit from the transaction apart from the value of or benefits obtained from the tax deductions, allowances, credits, and other tax attributes arising from such transaction. Under the Revenue Procedure 2001-28 guidelines, this requirement is met if: (a) the aggregate amount required to be paid by the lessee to or for the lessor over the lease term plus the value of the residual investment exceed an amount equal to the sum of the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the property and the lessor's Equity Investment in the property, including any direct costs to finance the Equity Investment; and (b) the aggregate amount required to be paid to or for the lessor over the lease term exceeds by a reasonable amount the aggregate disbursements required to be paid by or for the lessor in connection with the ownership of the property.[103] Similarly, the return of a profit to the lessor is arguably indicative of a true upside, sufficient to satisfy the sham transaction and benefits and burdens framework established by the case law.[104] The Trust and the Manager have represented to us that the profit requirement is expected to be satisfied.

I. Conclusion.

In light of the above factors, the Master Lease satisfies most of the pertinent material conditions set forth in Revenue Procedure 2001-28 that we believe are necessary for characterization as a true lease for federal income tax purposes. Likewise, under the framework established in the case law, the Master Lease bears the hallmarks of a bona fide lease. Accordingly, we believe that the Master Lease should be treated as a true lease rather than as a financing for federal income tax purposes.

VII. The Master Lease should be treated as a true lease and not as a deemed partnership for federal income tax purposes.

It also is necessary to consider whether the Master Lease could be re-characterized as a partnership for federal income tax purposes because if the Trust or the Beneficial Owners are treated as partners with the Master Tenant with respect to the ownership of the Property, the Beneficial Owners would not be treated as directly holding interests in the Property for

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affiliates exercise relative control. The limited guaranty should not be viewed as an amount of capital at risk in connection with ownership of the Property because the potential liability only arises due to events within the control of the Trust. Because the liability triggers are within the control of the Trust, such a limited guaranty is distinguishable from a full guaranty of the Trust's entire indebtedness.

103 Rev. Proc. 2001-28, 2001-1 C.B. 1156 at § 4.06.

104 While the "Uncontrollable Costs" feature of the Master Lease could potentially be viewed as giving rise to a relationship similar to a cash flow lease (*e.g.*, if the pool of items included in the formulation of Uncontrollable Costs was so expansive as to include the totality of operating expenses, or a significant portion thereof, thereby changing the nature of the Master Lease), we believe that the limited categories included therein (*i.e.*, utilities) are sufficiently tied to historic and anticipated costs and discrete in nature such that the Master Lease should still be properly viewed as a true lease and not an agency or a financing arrangement. As such, the Uncontrollable Costs adjustment mechanism in the Master Lease should not be viewed as a sharing of profits or losses. In addition, if there is an increase in the amount of Uncontrollable Costs, such costs will only be offset to the extent of Additional Rent; accordingly, if such rent amounts are unavailable, the burden for such costs remains with the Master Tenant.

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income tax purposes.[105] Case law provides that certain factors are indicative that a purported lease may in fact be a partnership for federal income tax purposes.[106]

A. Applicable Standards.

The courts have focused on the following factors when analyzing this issue:

1. Intent.

The test set forth in *Culbertson* is applicable in determining whether an agreement is treated as a partnership or as a lease.[107] The Master Lease specifically states that the parties do not intend to form a partnership or joint venture.[108] Likewise, the Master Lease provides that it is intended to be characterized as a true lease and that the parties shall reflect the Master

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[105] Because the Property Manager will not be in privity of contract with the Trust, there should be little doubt that there is not a partnership between the Property Manager and the Trust.

[106] *See Haley v. Comm'r*, 203 F.2d 815, 818 (5th Cir. 1953), *rev'g and rem'g* 16 T.C. 1509 (1951) (citing *Culbertson* and stating that a transaction will be treated as a partnership rather than a lease "if the agreements and the conduct of the parties . . . plainly show the existence of such [a partnership] relationship, and the intent to enter into it . . ."); *Luna v. Comm'r*, 42 T.C. 1067, 1077-78 (1964) (outlining factors that will aid in the determination of whether a partnership exists for federal income tax purposes: "The following factors, none of which are conclusive, bear on this issue: The agreement of the parties and their conduct in executing its terms; the contributions if any, which each party has made to the venture; the parties' control over income and capital and the right of each to make withdrawals; whether each party was a principal and coproprietor, sharing a mutual proprietary interest in the net profits and having an obligation to share losses, or whether one party was the employee of the other, receiving for his services contingent compensation in the form of a percentage of income; whether business was conducted in the joint names of the parties; whether the parties filed Federal partnership returns or otherwise represented to . . . persons with whom they dealt that they were joint venturers; whether separate books of account were maintained for the venture; and whether the parties exercised mutual control over and assumed mutual responsibilities for the enterprise.") (internal citations omitted); *Bussing v. Comm'r*, 88 T.C. 449, 460 (1987) ("A partnership for Federal income tax purposes is formed when the parties to a venture join together capital or services with the intent of conducting a business or enterprise and of sharing the profits and/or losses of the venture"); *Deitch v. Comm'r*, T.C. Memo 2022-86 (a partnership "for tax purposes is generally a more inclusive term than 'partnership' at common law, and for tax purposes it may include entities not traditionally considered partnerships. . . . To decide whether a partnership exists, a court must also analyze the relevant facts" under the *Luna* factors). In *Bussing*, the parties entered into a multiparty sale lease-back transaction intending to qualify under *Frank Lyon*. In a sale lease-back transaction, rent payments generally offset amounts due under the debt incurred to purchase the asset, giving the purchaser-lessor an interest in the rent. Because of a remarketing agreement that enabled the seller-lessee to share along with the purchaser-lessor in the net residual value of the leased property, and that the purchaser-lessor took the property subject to already existing debt and therefore bore a risk of loss if the debt was not repaid, the court determined this evidenced a partnership. In *Deitch*, a lender and creditor entered into a financing arrangement whereby certain loan documents exhibited terms that weighed against the finding of a debtor-creditor relationship and, thus, weighed in favor of finding a partnership for tax purposes (*e.g.*, lender entitled to a portion of net cash flow of the underlying property and a portion of the gross sale proceeds that attempted to capture appreciation of the property's value). However, the Tax Court affirmed the principle espoused in *Luna* that no single factor is conclusive, and accordingly held that the transaction, when viewed as a whole, did not establish a partnership for tax purposes despite certain partnership-like characteristics.

[107] *Comm'r v. Culbertson*, 337 U.S. 733 (1949).

[108] *See* Master Lease at §§ 3.5 & 23.15.

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Lease as such in all applicable books, records, and reports, including income tax filings.[109]

2. Joint Contribution of Capital or Services.

Where persons combine their capital and services together in an enterprise such that they are required to deal with each other to realize the economic benefits from the property, the arrangement generally will be characterized as a partnership.[110] The Trust and the Master Tenant do not intend to pool either their capital or services. The Trust will make the Property available to the Master Tenant and will not participate in, or provide services to, the Master Tenant's business (except to the extent necessary to protect their investment in the Property). Similarly, the Master Tenant will not provide capital to enable the Trust to acquire or improve the Property and will not provide services to the Trust (except to the extent necessary to comply with its obligations under the Master Lease).

3. Joint Capital and Ownership of Capital and Earnings.

Another factor is whether the participants will have joint control over the capital and earnings of the venture.[111] The Master Tenant will have control over cash from the Property. However, the Master Tenant should not be deemed to have an ownership interest in the funds to which the Trust is entitled, and the Master Tenant does not have the power to spend such funds except pursuant to the specific terms provided under the Master Lease. The Trust and the Master Tenant will each earn a separate and distinct profit stream. The Master Tenant will recognize income or loss based on the difference between the rent it receives on its subleases and the expenses of leasing and operating the Property. The Trust will receive rent from the Master Tenant, including a fixed base rent payment payable monthly and a percentage of gross rents earned on an annual basis (with estimated payments being made to the Trust on a monthly basis).[112] The Master Lease does not provide for any rental payments based on net operating income or net cash flow from the operation of the Property. Thus, none of these parties will jointly share in profits or losses; rather, each will bear its own separate and unique risk that a profit will be realized.

4. Sharing of Profits as Co-proprietors.

Partners generally share profits as co-proprietors. A sharing of profits, however, is not alone sufficient to make partners or joint venturers out of participants in a business enterprise if the requisite element of co-ownership is not established.[113] A profit share in

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109 *See* Master Lease at § 3.5.

110 *Bussing*, 88 T.C. at 460; *Alhouse v. Comm'r*, T.C. Memo 1991-652.

111 *Luna*, 42 T.C. at 1077-78. Courts have found that control over capital and earnings of the venture may exist where one party can exercise *de facto* control over the purported venture's assets by, for example, refusing to act when the results of such refusal could forcibly effect disposition of the venture's assets. *See Deitch*, T.C. Memo 2022-86 (lender could have refused loan terms extensions that would have caused loan principal to fall due, and because the property encumbered by the loan was the purported venture's only asset, the venture would have been forced to sell the property to satisfy loan obligations).

112 *See* Master Lease at § 4.1.

113 *See* Treas. Reg. § 301.7701-1(a)(2) (if an individual owner of farm property leases it to a farmer for a cash rental or a share of the crops, they do not necessarily create a separate entity for federal income tax purposes); *Grandview Mines v. Comm'r*, 282 F.2d 700 (9th Cir. 1960), *aff'g* 32 T.C. 759 (1959) (46.5%

a lease can be received by a lessor as rent without the lessor becoming a partner in the enterprise. A share of net receipts, as opposed to gross receipts, is stronger evidence that a partnership relationship exists, but without more, should not cause a lease to be recharacterized as a partnership. Under the Master Lease, the Master Tenant receives rent from the sublease of the Property whereas the Trust receives rent from the Master Tenant. Under the Treasury Regulations, the sharing of gross rents, without more, is very unlikely to create a partnership arrangement.[114] The only sharing involved in the present case is the fact that the Trust might share in certain gross percentage rent, as landlords and not as partners, only to the extent such rent exceeds a set base.[115] Thus, the Trust and the Master Tenant should not be viewed as sharing in the net profits from the Property.

5. Sharing of Losses.

Although the sharing of losses is not required to obtain partner status, this has often been a significant factor in cases distinguishing leases from partnerships. A mere profit-sharing agreement would not be taxed as a partnership absent an intent to form a partnership, especially when there was no agreement to share losses.[116] In this case, the Master Tenant

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of lessee's net profits from leased property; not recharacterized as partnership); *see also United States v. Myra Foundation*, 382 F.2d 107 (8th Cir. 1967) (sharecropping arrangement not partnership even though landowner furnished seed, paid half of certain expenses, and participated in farming operations through a farm manager); *White's Iowa Manual Labor Inst. v. Comm'r*, T.C. Memo 1993-364 (same result); *Harlan E. Moore Charitable Trust v. United States*, 9 F.3d 623 (7th Cir. 1993) (same result); *Trust U/W Emily Oblinger v. Comm'r*, 100 T.C. 114 (1993); *cf. Bank of El Paso v. United States*, 509 F.2d 832 (5th Cir. 1975) (holding characterization as lease or partnership was a question for the jury and distinguishing *Myra Foundation*); Rev. Rul. 57-7, 1957-1 C.B. 435 (arrangements in which coin-operated entertainments were placed on premises and under which the owner of the premises received a percentage of the gross receipts were leases); *Manchester Music Co., Inc. v. United States*, 733 F. Supp. 473 (D.N.H. 1990) (reaching opposite conclusion from Rev. Rul. 57-7); *In re Acme Music Co., Inc.*, 196 B.R. 925 (W.D. Pa. 1996) (no partnership between owner of premises of operator of coin-operated entertainments where owner and operator shared only gross profits, not net profits); Rev. Rul. 92-49, 1992-1 C.B. 433 (allowing taxpayers to elect how to report arrangements described in Rev. Rul. 57-7); *see also Duley v. Comm'r*, T.C. Memo 1981-246 (no partnership even though profit sharing because no intent to form partnership, no sharing of losses and no material interest in capital); *Koss v. Comm'r*, T.C. Memo 1989-330 (no partnership when joint sharing of profits because no obligation to contribute capital or share losses and no proprietary interest in profits); *Deitch*, T.C. Memo 2022-86 (50% of debtor's net cash flow from encumbered property nominally classified as interest; not recharacterized as a partnership); I.R.S. Priv. Ltr. Rul. 8003027 (Oct. 23, 1979); I.R.S. Gen. Couns. Mem. 36,113 (Dec. 19, 1974); Rev. Rul. 75-43, 1975-1 C.B. 383.

114 Treas. Reg. § 1.761-1(a); Treas. Reg. § 301.7701-1(a)(2) (when an owner of farm land leases property to a farmer for a cash rental or a share of the crops, the lease does not necessarily result in a separate entity for federal income tax purposes).

115 *See* Master Lease at §§ 4.1.2 & 4.1.3. As noted above, we believe that the limited categories of expenses included in Uncontrollable Costs (*i.e.*, utilities) are sufficiently tied to historic and anticipated costs and discrete in nature such that the Master Lease should still be properly viewed as a true lease and not as a deemed partnership. As such, the Uncontrollable Costs adjustment mechanism in the Master Lease should not be viewed as a sharing of profits or losses and, therefore, is not indicative of a deemed partnership.

116 *See Deitch*, T.C. Memo 2022-86 (the lender's entitlement to 50% of net cash flow meant that the parties "did not have equivalent interests in the [property's] income stream" and that the lender "was always guaranteed to receive what amounted to more than half of the income from the property, provided that the property was profitable"; although the court ultimately found that the arrangement gave parties

will not share in losses generated from an ownership interest in the Property. Further, in the case of the Master Lease, the Trust will lease the Property to the Master Tenant, and will not share in losses, if any, sustained by the Master Tenant with respect to operating and subletting of the Property.

6. Control Over the Business.

An arrangement whereby two or more persons share the profits of a common undertaking does not constitute a joint venture in the absence of the power to control.[117] Typically, a lessor does not jointly manage the leased property with the lessee. The right of a lessor to participate in the management of the property, therefore, is an important factor distinguishing leases from partnerships.[118] Under the terms of the Master Lease, the Trust will have limited rights to participate in the management of the Property. The Master Tenant will have the right to manage the day-to-day operation of the Property. Any sublease by the Master Tenant does not require the consent of the Trust so long as the term of such sublease terminates prior to the term of the Master Lease.[119] While any decision to sell or refinance the Property will be made by the Manager on behalf of the Trust, this right is typical for a lessor to possess as the owner of the Property and, therefore, does not support partnership characterization.

7. Parties' Agreement and Conduct in Executing its Terms.

As stated above, the Master Lease specifically states that the parties do not intend to create a partnership or joint venture.[120] Additionally, we believe the terms of the Master Lease are not indicative of a financing arrangement, joint venture, or management arrangement. Accordingly, the parties' agreement and, to our knowledge, their conduct in executing its terms should not be indicative of a partnership for federal income tax purposes.[121]

8. Maintenance of Separate Books.

The Master Tenant will not keep books or records on behalf of the Trust; such tasks will be performed by the Manager on behalf of the Trust. Under the Master Lease, the Master Tenant will keep records as required to report and pay rental payments to the Trust so that

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control over the income and capital of the purported venture, the court's language implies that the mere sharing of profit, but not loss, was not the critical factor in such determination).

117 *Joe Balestrieri and Co. v. Comm'r*, 177 F.2d 867 (9th Cir. 1949); *O'Connor v. Comm'r*, T.C. Memo 1960-70 (broker split profits but compensated for losses).

118 *See*, *e.g.*, *Grandview Mines*, 282 F.2d at 700; *Haley v. Comm'r*, 203 F.2d 815 (5th Cir. 1953).

119 *See* Master Lease at § 19.4.

120 *See* Master Lease at § 23.15.

121 *See Sun Cap. Partners III, LP v. New England Teamsters & Trucking Indus. Pension Fund*, 943 F.3d 49 (1st Cir. 2019) (in deciding whether two private equity funds (the "**Funds**") had created a deemed partnership: "The fact that the Funds expressly disclaimed any sort of partnership between the Funds counts against a partnership finding as to several of the *Luna* factors."); *Deitch v. Comm'r*, T.C. Memo 2022-86 ("[L]oan documents executed by [the parties] could hardly have been more explicit in naming their relationship. Affirmatively, the documents stated that [the parties] were borrower and lender. Negatively, the documents expressly stated that [the parties] did not form a joint venture [and the parties] conducted themselves in accordance with the terms of the loan documents.").

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the Trust will separately report its separate rental income.[122]

9. Filing of Tax Returns or Other Partnership Action.

Pursuant to the Master Lease, no partnership returns will be filed and the parties are prohibited from otherwise acting or holding themselves out as partners in a partnership.[123] Each party is specifically required to reflect the transactions represented by the Master Lease in all applicable books, records, and reports (including, without limitation, income tax filings) in a manner consistent with true lease treatment *(i.e.*, in a manner reflecting a relationship between a landlord and tenant).[124]

10. Lessee Shares in Residual Proceeds.

Although a number of cases have upheld transactions as leases even though the lessee was engaged to provide the lessor with remarketing services in exchange for a share of the sales proceeds,[125] this factor is not present here. In addition, any compensation of the Manager, if any, upon a sale of the Property is a matter of contract between the Trust and the Manager and should not give rise to a partnership between the Master Tenant and the Trust for federal income tax purposes.

B. Conclusion.

Based on these factors, the arrangement between and among the Trust and the Master Tenant should not give rise to a deemed partnership for federal income tax purposes.

VIII. The discussion of the federal income tax consequences contained in the Memorandum are correct in all material respects.

We have reviewed the discussion of federal income tax consequences contained in the Memorandum, and we believe that it is correct in all material respects. Our opinion, however, does not address whether the exchange entered into by a Purchaser satisfies all of the requirements of Section 1031.

IX. Certain judicially created doctrines should not apply to change the foregoing conclusions.

There are a number of judicially created doctrines that may conceivably apply to the Trust's contractual arrangements, including the economic substance, sham transaction, substance over form, and step transaction doctrines. For reasons discussed more fully below, none of the foregoing doctrines should apply to recharacterize the contractual arrangements or

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122 *See* Master Lease at § 23.20.

123 *See* Master Lease at § 23.15; *Sun Capital,* 943 F.3d at 60 (applying the *Luna* factors, recognized that "[t]he Funds also filed separate tax returns . . . [a] fact[] which tend[s] to rebut partnership formation."). *Deitch*, T.C. Memo 2002-86.

124 *See* Master Lease at § 3.5.

125 *See*, *e.g.*, *Levy v. Comm'r*, 91 T.C. 838 (1988); *Casebeer v. Comm'r*, 909 F.2d 1360 (9th Cir. 1990).

transactions in the instant case.

A. Economic Substance and Business Purpose.

1. Applicable Rules.

Taxpayers generally are free to structure their business transactions as they please, even if motivated by tax avoidance considerations.[126] While a transaction with no purpose other than to reduce taxes will not be recognized for federal income tax purposes, a transaction that has a meaningful business purpose and economic substance should be respected, regardless of whether the taxpayer also intended to reduce taxes.[127] In *Frank Lyon Co. v. United States*,[128] the Supreme Court stated:

> [W]here . . . there is a genuine multiple-party transaction with economic substance which is compelled or encouraged by business or regulatory realities, is imbued with tax-independent considerations, and is not shaped solely by tax-avoidance features that have meaningless labels attached, the Government should honor the allocation of rights and duties effectuated by the parties.[129]

As a result of *Frank Lyon*, a two-pronged test was developed to determine whether the form of a transaction should be respected or disregarded as a sham. In *Rice's Toyota World, Inc.*,[130] the Fourth Circuit articulated this test by stating that "[t]o treat a transaction as a sham, the court must find that the taxpayer was motivated by no business purposes other than obtaining tax benefits in entering the transaction, and that the transaction has no

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126 *See Gregory v. Helvering*, 293 U.S. 465 (1935); *Rice's Toyota World, Inc. v. Comm'r*, 81 T.C. 184, 196 (1983), *aff'd in part, rev'd in part, rem'd* 752 F.2d 89 (4th Cir. 1985).

127 *Gregory*, 293 U.S. at 469; *see also Superior Oil Co. v. Mississippi*, 280 U.S. 390, 395-96 (1930) ("The only purpose of the [taxpayer] was to escape taxation. . . . The fact that it desired to evade the law, as it is called, is immaterial, because the very meaning of a line in the law is that you intentionally may go as close to it as you can if you do not pass it."); *Knetsch v. United States*, 364 U.S. 361, 365 (1960) (citing *Gregory* regarding the legal right of a taxpayer to decrease or altogether avoid taxes); *ACM Partnership v. Comm'r*, 157 F.3d 231, 248 n.31 (3d Cir. 1998) ("[I]t is also well established that where a transaction objectively affects the taxpayer's net economic position, legal relations, or non-tax business interests, it will not be disregarded merely because it was motivated by tax considerations. . . . In analyzing both the objective and subjective aspects of [the] transaction in this case where the objective attributes of an economically substantive transaction were lacking, we do not intend to suggest that a transaction which has actual, objective effects on a taxpayer's non-tax affairs must be disregarded merely because it was motivated by tax considerations.") (internal citation omitted); *Yosha v. Comm'r*, 861 F.2d 494, 499 (7th Cir. 1988) (a transaction has economic substance when ". . . it is the kind of transaction that some people enter into without a tax motive, even though the people fighting to defend the tax advantages of the transaction might not or would not have undertaken it but for the prospect of such advantages—may indeed have had no other interest in the transaction.").

128 435 U.S. 561 (1978).

129 *Id.* at 583-84; *see also Cottage Savings Ass'n v. Comm'r*, 499 U.S. 554 (1991) (a savings and loan association that swapped mortgage portfolios in order to recognize a tax loss was allowed such loss; the Supreme Court focused not on the tax-motivated purpose, but on whether the portfolios were materially different by tax as opposed to economic standards).

130 81 T.C. 184 (1983).

economic substance because no reasonable possibility of a profit exists."[131] This test therefore analyzes both the objective and subjective aspects of a transaction, *i.e.*, the economic substance and the subjective business motivation behind the transaction, respectively.[132] These objective and subjective aspects are not discrete prongs of a "rigid two-step analysis," but rather are related factors in the analysis of whether a transaction has sufficient substance, apart from its tax consequences, to be respected.[133]

With respect to determining profit potential, the courts have not traditionally established a threshold amount of profit to determine whether a transaction should be respected for federal income tax purposes. The Tax Court has in some cases required more than a de minimis amount of profit, especially where transactions involving financial instruments are concerned.[134] Other courts, however, have been reluctant to propose a threshold amount.[135]

In *United Parcel Service of America, Inc. v. Commissioner*,[136] the Eleventh Circuit reversed the Tax Court[137] on the issue of economic substance in finding that the restructuring by United Parcel Service ("**UPS**") of its excess-value business had both real economic effects and a business purpose. The Court reasoned that setting up a transaction (that otherwise has economic substance) with tax planning in mind is permissible as long as it figures in a bona fide, profit-seeking business purpose. In its finding that UPS's transaction had a valid business purpose, the Court noted that "[a] 'business purpose' does not mean a reason for a transaction that is free of tax considerations. Rather, a transaction has a 'business purpose' . . . as long as it figures in a bona fide, profit-seeking business."[138]

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131 *Rice's Toyota World, Inc. v. Comm'r*, 752 F.2d 89, 91 (4th Cir. 1985); *see also Horn v. Comm'r*, 968 F.2d 1229, 1237 (D.C. Cir. 1992) (before declaring a transaction an economic sham, the court should consider whether the transaction presented a reasonable prospect for economic gain).

132 *Casebeer v. Comm'r*, 909 F.2d 1360, 1363 (9th Cir. 1990); *accord Lerman v. Comm'r*, 939 F.2d 44, 53-54 (3d Cir. 1991) (noting that a sham transaction is defined as a transaction that "has no business purpose or economic effect other than the creation of tax deductions" and holding that the taxpayer was not entitled "to claim 'losses' when none in fact were sustained").

133 *Casebeer*, 909 F.2d at 1363; *see also Jacobson v. Comm'r*, 915 F.2d 832, 837 (2d Cir. 1990) (the determination of economic substance looks to whether the transaction has any "practicable economic effects other than the creation of income tax losses."); *Weller v. Comm'r*, 270 F.2d 294, 297 (3d Cir. 1959) (transactions that do not change the flow of economic benefits are disregarded if they do not change the taxpayer's financial position); *N. Ind. Pub. Serv. Co. v. Comm'r*, 115 F.3d 506, 512 (7th Cir. 1997), *aff'g* 105 T.C. 341 (1995) (the IRS could not set aside transactions which resulted "in actual, non-tax related changes in economic position."); *Larsen v. Comm'r*, 89 T.C. 1229 (1987); *cf. Kirchman v. Comm'r*, 862 F.2d 1486 (11th Cir. 1989) (existence of a nontax business purpose does not mandate the recognition of a transaction that otherwise lacks economic substance); *Goldstein v. Comm'r*, 364 F.2d 734 (2d Cir. 1966) (the court denied the taxpayer a prepaid interest deduction on debt incurred by the taxpayer solely to generate a deduction because the taxpayer could not reasonably have had any purpose in entering the transactions other than to reduce taxes).

134 *See Hilton v. Comm'r*, 74 T.C. 305, 353 (1980), *aff'd per curiam* 671 F.2d 316 (9th Cir. 1982) (a 6% rate of *return* was required for purposes of the economic substance determination); *Krumhorn v. Comm'r*, 103 T.C. 29 (1994).

135 *See Estate of Thomas v. Comm'r*, 84 T.C. 412, 440 n.52 (1985) (the court abstained, absent legislative *guidance*, from proposing a particular return for purposes of the determination of profit potential).

136 254 F.3d 1014 (11th Cir. 2001), *rev'g* T.C. Memo 1999-268.

137 T.C. Memo 1999-268.

138 *United Parcel Serv.*, 254 F.3d at 1019.

The economic substance doctrine was developed under an extensive body of case law prior to being codified as Section 7701(o) as part of the Reconciliation Act of 2010.[139] Before the economic substance doctrine under Section 7701(o) can be applied to a transaction, it is important to ask whether the economic substance doctrine is relevant to such transaction. Section 7701(o)(5)(C) provides that "[t]he determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection has never been enacted."[140] For example, the Joint Committee Report specifically provides that "[l]easing transactions, like all other types of transactions, will continue to be analyzed in light of all the facts and circumstances."[141] This suggests that the economic substance doctrine as codified will be applied as it historically has been applied under the case law. However, taxpayers should anticipate that the courts and the IRS could apply the specific language of the statute.

The Joint Committee Report provides for two types of transactions that are not considered relevant for purposes of the economic substance doctrine: (i) transactions giving rise to the realization of tax benefits consistent with the intent of Congress; and (ii) certain basic business transactions that are respected "under longstanding judicial and administrative practice."[142] Regarding the first category of transactions to which the economic substance doctrine is not relevant, the Joint Committee Report states that "[i]f the realization of the tax benefits of a transaction is consistent with the Congressional purpose or plan that the tax benefits were designed by Congress to effectuate, it is not intended that such tax benefits be disallowed."[143] Regarding the second category of transactions to which the economic substance doctrine is not relevant, the Joint Committee Report states that Section 7701(o) "is not intended to alter the tax treatment of certain basic business transactions that, under longstanding judicial and administrative practice are respected, merely because the choice between meaningful economic alternatives is largely or entirely based on comparative tax advantages."[144] The Joint Committee Report further provides that the economic substance doctrine does not apply to the following four basic business transactions:

> (1) the choice between capitalizing a business enterprise with debt or equity; (2) a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment; (3) the choice to enter a transaction or series of transactions that constitute a corporate organization or reorganization under subchapter C [of the Code]; and (4) the choice to use a related-party entity in a transaction, provided that the arm's length standard of section 482 and

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139 As codified, the economic substance doctrine is the "common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose." Code § 7701(o)(5)(A).

140 *See also* Joint Committee Report, *supra* note 77, at 152 ("[T]he provision does not change present law standards in determining when to utilize the economic substance analysis.").

141 *Id.* at 153.

142 *Id.* at 152-53.

143 *Id.* at 152 n.344.

144 *Id.* at 152.

other applicable concepts are satisfied.[145]

The legislative history to Section 7701(o) provides limited guidance as to whether the economic substance doctrine applies in the first instance. Specifically, in House Report 111-443 (the "**House Report**"), the House Budget Committee explained that it does not intend for the provision to alter the tax treatment of "certain basic business transactions that, under longstanding judicial and administrative practice are respected, merely because the choice between meaningful economic alternatives is largely or entirely based on comparative tax advantages."[146] The House Report goes on to note that, "[a]s under present law, whether a particular transaction meets the requirements for specific treatment under any of these provisions can be a question of facts and circumstances."[147]

In addition, the Large Business and International Division of the IRS issued guidance to assist examiners and their managers with determining whether it is appropriate to raise the economic substance doctrine with respect to a transaction under review (the "**LB&I Directive**").[148] The LB&I Directive lists factors tending to show that it likely would be inappropriate to apply the economic substance doctrine, such as if (i) the transaction was not highly structured, (ii) the transaction was based on arms' length terms negotiated by unrelated third parties, (iii) the transaction did not involve unnecessary steps, (iv) the transaction was not promoted by a tax department or outside counsel, or (v) the transaction generates targeted tax incentives that are, in form and substance, consistent with Congressional intent in providing the incentives.[149]

If a transaction is relevant and thus subject to the economic substance doctrine, Section 7701(o) codifies the position, already taken by many courts, that the economic substance doctrine entails application of a "conjunctive test."[150] Specifically, Section 7701(o)(1) provides that a transaction (or series of transactions) to which the economic substance doctrine applies is treated as having economic substance only if: (1) it changes in a meaningful way (apart from any federal income tax effects) the taxpayer's economic position; and (2) the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction. Before enacting Section 7701(o), some circuit courts of appeal would only require a change in economic circumstances or a business purpose. By enacting Section 7701(o), Congress eliminated any distinction between the different federal circuit courts of appeal as to whether the foregoing test should be applied

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145 *Id.* at 152-53.

146 H.R. REP. NO. 111-443, at 296 (2010).

147 *Id*.

148 LB&I Directive, *Guidance for Examiners and Managers on the Codified Economic Substance Doctrine and Related Penalties*, Control No: LB&I-4-0711-015 (July 15, 2011). Comments from members of the IRS suggest that the IRS does not consider the LB&I Directive to represent substantive guidance for taxpayers. *See* Lee A. Sheppard & Jeremiah Coder, *What Does the Economic Substance Directive Mean?*, 2011 TAX NOTES TODAY 205-5 (Oct. 24, 2011). Even so, the LB&I Directive provided insight into the IRS's understanding of Section 7701(o).

149 *Id.*

150 *See*, *e.g.*, *Klamath Strategic Inv. Fund v. United States*, 568 F.3d 537 (5th Cir. 2009); *Coltec Indus., Inc. v. United States*, 454 F.3d 1340 (Fed. Cir. 2006); *United Parcel Serv. of Am., Inc. v. Comm'r*, 254 F.3d 1014 (11th Cir. 2001).

conjunctively or disjunctively.

2. Analysis.

The Trust's contractual arrangements should be recognized for federal income tax purposes according to their form. As discussed above, the economic substance doctrine does not apply to certain basic business transactions, including a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment. Although the use of Delaware statutory trusts to invest in real properties is not a transaction that is specifically included in the list of basic business transactions in the Joint Committee Report that are not subject to the economic substance doctrine, the transaction pertaining to "a U.S. person's choice between utilizing a foreign corporation or a domestic corporation to make a foreign investment" speaks to the general issue of how a taxpayer structures investments, such that the type of entity used by a taxpayer to structure an investment (*i.e.*, a corporation, partnership, or trust) should arguably be considered a basic business transaction that is not relevant and to which the economic substance doctrine is not applicable. Accordingly, the holding by the Beneficial Owners of the Property through the Trust should be treated as a transaction that is not relevant for purposes of Section 7701(o), such that the economic substance doctrine should not apply.

Even if for the sake of argument, however, the holding by the Beneficial Owners of the Property through the Trust were treated as a transaction that is relevant for purposes of Section 7701(o), such transaction should be respected because (i) the Beneficial Owners' economic positions are meaningfully changed as a result of entering into the transactions herein; and (ii) there is a substantial purpose (apart from federal income tax effects) for the Beneficial Owners for entering into the transactions. Such substantial purpose is to enable each Beneficial Owner to be treated as a direct owner of a portion of the Property for federal income tax purposes. Furthermore, each Beneficial Owner's economic position changes in a meaningful way as it will be given an opportunity to own an interest in the Property in a manner that it might not otherwise be able to do on its own accord due to its respective individual financial limitations. In addition, each Beneficial Owner will have a right to its pro rata share of all income and loss generated by the bona fide, profit-seeking business of operating the Property, and the allocation of all economic benefits and burdens associated with the Property will correspond to the respective Interest owned by each Beneficial Owner. For the foregoing reasons, the Trust's transactions and contractual arrangements herein should be respected under the economic substance doctrine.

B. Sham Transaction Doctrine.

1. Applicable Rules.

Under the sham transaction doctrine, a transaction may be disregarded if it constitutes a factual sham or an economic sham. A factual sham is a purported transaction that is not

executed as a factual matter.[151] In contrast, an economic sham is a transaction that has occurred, but is devoid of economic substance.[152] In general, the economic sham doctrine will not be applied if the taxpayer can prove that there is either a business purpose for, or economic substance to, the given transaction.[153]

The application of the sham transaction doctrine is extremely fact specific and has led courts to render somewhat inconsistent rulings in this area. For example, the Third Circuit in *ACM Partnership v. Commissioner* disregarded the capital loss that arose from a complex, multi-step partnership transaction.[154] The court ultimately concluded that the steps involved in the transaction lacked a non-tax economic effect and did not possess a significant non-tax business purpose.[155] The Third Circuit nevertheless recognized that "it is . . . well established that where a transaction objectively affects the taxpayer's net economic position, legal relations, or non-tax business interests, [a transaction] will not be disregarded merely because it was motivated by tax considerations."[156] The transaction at issue in *Boca Investerings Partnership v. United States*[157] was similar to the *ACM* transaction, but the District Court for the District of Columbia respected the partnership transactions at issue in that case. The *Boca* court concluded that the partnership had been formed as a valid investment partnership. It had the potential to make a profit or loss from its activities, and the partners were not sheltered from economic risk or guaranteed a specific return on their respective partnership investments.

The Fifth and Eighth Circuits have held that certain foreign tax credit planning strategies implemented to achieve tax benefits must be recognized under the sham transaction doctrine because the transactions were sufficiently imbued with both economic substance and business purpose. The Fifth Circuit in *Compaq Computer Corp. v. Commissioner*[158] reversed a decision of the Tax Court and held that a purchase and immediate resale of American depository receipts ("**ADRs**") of a foreign publicly traded corporation possessed economic substance. Specifically, the court concluded that the transaction had objective

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151 *Brown v. Comm'r*, 85 T.C. 968, 1000 (1985), *aff'd sub nom Sochin v. Comm'r*, 843 F.2d 351 (9th Cir. 1988); Brion D. Graber, *Can the Battle be Won? Compaq, the Sham Transaction Doctrine, and a Critique of Proposals to Combat the Corporate Tax Shelter Dragon*, 149 U. PA. L. REV. 355, 362-63 (2000).

152 *Gregory v. Helvering*, 293 U.S. 465 (1935); *Knetsch v. United States*, 364 U.S. 361, 366 (1960) ("There may well be single-premium annuity arrangements with nontax substance which create an 'indebtedness' for the purposes of [Section] 23(b) of the 1939 Code and [Section] 163(a) of the 1954 Code. But this one is a sham."); *Goldstein v. Comm'r*, 364 F.2d 734, 742 (2d Cir. 1966) ("[T]ransactions that lack all substance, utility, and purpose, and which can only be explained on the ground the taxpayer sought an interest deduction in order to reduce his taxes, will also be so transparently arranged that they can candidly be labeled 'shams.'"), *cert. denied* 385 U.S. 1005 (1967); *Alessandra v. Comm'r*, T.C. Memo 1995-238.

153 *Rice's Toyota World, Inc. v. Comm'r*, 81 T.C. 184, 203 (1983) ("Our analysis does not end here. Mr. Rice's failure to focus on the business or non-tax aspects of the transaction is not necessarily fatal to petitioner's claim. If an objective analysis of the investment indicates a realistic opportunity for economic profit which would justify the form of the transaction, it will not be classified as a sham."); *see also Frank Lyon Co. v. United States*, 435 U.S. 561 (1978).

154 157 F.3d 231, 263 (3d Cir. 1998).

155 *Id.* at 247.

156 *Id.* at 248 n.31 (internal citation omitted).

157 167 F. Supp. 2d 298 (D.D.C. 2001).

158 277 F.3d 778 (5th Cir. 2001), *rev'g* 113 T.C. 214 (1999).

economic substance because tax was Compaq's principal, but not sole, purpose in entering into the transaction.[159] As a result, Compaq could credit the foreign taxes associated with the dividend.[160] The Eighth Circuit came to a similar conclusion in *IES Industries, Inc. v. United States*,[161] which reversed a district court decision that a purchase and sale of ADRs were sham transactions.

There are a number of cases in this area that are difficult to reconcile. Nevertheless, the main point that appears to underlie all of the cases is the principle enunciated by Judge Learned Hand in *Gregory v. Helvering—i.e.*, that tax motivated transactions are not *per se* invalid, provided there is some non-tax business purpose for the transaction.[162]

2. Analysis.

The sham transaction doctrine should also not apply to recharacterize the Trust's contractual arrangements because all of the component steps necessary to implement the proposed contractual arrangements will actually occur. Moreover, the economic sham concept should not apply to the instant case because the parties have a substantial business purpose in undertaking the investment in the Interests, and, as discussed above, the transactions will have economic substance. Thus, the sham transaction doctrine should not be applied to recharacterize the contractual arrangements and transactions at issue.

C. The Substance-Over-Form and Step Transaction Doctrines.

1. Applicable Rules.

It is an oft-cited principle that taxpayers generally are free to structure their business transactions as they please, even if motivated by tax avoidance considerations.[163] However, as a general rule, the incidence of taxation depends on the substance rather than the form of a transaction. Under the substance-over-form doctrine, a court should respect the form of a transaction where it accurately reflects the underlying substance. "If, however, the substance and form of a transaction do not comport, then the substance of the transaction controls for purposes of U.S. federal tax law."[164]

In determining whether the form of a transaction reflects the substance of the transaction, a taxpayer's motivations are "largely irrelevant – what instead is important is, in the words of *Gregory*, 'what was done.'"[165] "To determine the substance of the transactions, we

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159 *Id*. at 786-87.

160 *Id*. at 788.

161 *IES Indus., Inc. v. United States*, 253 F.3d 350 (8th Cir. 2001) (the facts of *Compaq Computer* and of *IES Industries* are in large part identical because the strategy upon which the transactions were based was developed and marketed by the same securities broker).

162 69 F.2d 809, 810 (2d Cir. 1934) ("Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one's taxes."), *aff'd* 293 U.S. 465 (1935).

163 *See Gregory v. Helvering*, 293 U.S. 465 (1935); *Rice's Toyota World, Inc. v. Comm'r*, 81 T.C. 184, 196 (1983).

164 *AWG Leasing Trust v. United States*, 592 F. Supp. 2d 953, 975 (N.D. Ohio 2008).

165 *Principal Life Ins. Co. v. United States*, 70 Fed. Cl. 144, 166 (2006).

consider all of their aspects that shed any light upon their true character."[166]

Courts may recharacterize transactions using the substance-over-form doctrine in cases where mere formalities were designed to make a transaction appear to be other than what it was.[167] For example, in *Court Holding*, a corporation entered into an oral agreement to sell its sole asset; however, before the sale was consummated, the corporation's tax attorney advised that the sale would result in the imposition of a large income tax on the corporation. To avoid this tax liability, and upon advice of its tax attorney, the corporation changed the transaction by having the corporation declare a liquidating dividend to its shareholders, and having the shareholders enter into a written agreement with the same purchaser on substantially the same terms and conditions previously agreed upon by the corporation. The Supreme Court affirmed the Tax Court's holding that the sale by the shareholders was in substance a sale by the corporation.

The application of any substance-over-form doctrine is extremely fact specific, which has led courts to render somewhat inconsistent rulings in this area.[168] There are a number of cases in this area that are difficult to reconcile. Nevertheless, as enunciated by Judge Learned Hand in *Gregory v. Helvering*: "Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one's taxes."[169]

A subset or derivation of the substance-over-form doctrine is the step transaction doctrine. Courts have applied three separate versions of the so-called "step transaction doctrine" to determine whether purportedly separate steps should be combined as components of a single transaction: (i) the "end result" test, (ii) the "mutual interdependence" test, and (iii) the "binding commitment" test.[170] Nevertheless, the IRS cannot use the step transaction doctrine to invent steps that did not occur or recast a transaction into another transaction with the same number of steps.[171]

The Tax Court applied both the end result and mutual interdependence tests in *Andantech*. In *Andantech*, a U.S. partnership was formed with two non-U.S. partners to cause the foreign partners to recognize a significant portion of the income attributable to a sale-leaseback transaction that the partnership entered into with Comdisco.[172] Almost all of the partnership interests were then contributed to a U.S. indirect subsidiary of a U.S. bank so that the bank could enjoy the benefits of the losses (attributable to interest and depreciation) generated by the partnership's lease arrangement with Comdisco.[173] The Tax Court,

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166 *Commc'ns Satellite Corp. v. United States*, 625 F.2d 997, 1000 (Ct. Cl. 1980).

167 *Comm'r v. Court Holding Co.*, 324 U.S. 331 (1945).

168 *See, e.g.*, *ACM Partnership v. Comm'r*, 157 F.3d 231, 263 (3d Cir. 1998); *Boca Investerings Partnership v. United States*, 167 F. Supp. 2d 298 (D.D.C. 2001).

169 69 F.2d 809, 810 (2d Cir. 1934), *aff'd* 293 U.S. 465 (1935).

170 Stephen S. Bowen, *The End Result Test*, 72 TAXES 722 (1994).

171 *Esmark, Inc. v. Comm'r*, 90 T.C. 171, 196 (1988) ("Respondent proposes to recharacterize the tender offer/redemption as a sale of the Vickers shares to Mobil followed by a self-tender. This recharacterization does not simply combine steps; it invents new ones. Courts have refused to apply the step-transaction doctrine in this manner."), *aff'd without published opinion* 886 F.2d 1318 (7th Cir. 1989).

172 *Andantech, LLC v. Comm'r*, T.C. Memo 2002-97.

173 *Id*.

applying both the end result and mutual interdependence tests, concluded that a more direct characterization of the transaction was a direct sale-leaseback arrangement between Comdisco and bank's subsidiary.[174] The court analyzed a number of facts in reaching this conclusion, but the salient fact was that all of the parties intended the ultimate result (*i.e.*, that bank's subsidiary would participate in the lease) and the intermediate steps were meaningless apart from tax considerations.

The Second Circuit rejected a somewhat similar argument by the IRS in *Grove v. Commissioner*.[175] The IRS in *Grove* attempted to reorder a donation of stock followed by a redemption as a redemption of the stock followed by a gift of cash.[176] The Tax Court refused to permit the IRS to recast the transaction, reasoning that there was no reason to recast the form of the transaction chosen by the taxpayer, even though the form was tax-motivated.[177] The only effect of the IRS's recast would be to create a tax liability in a transaction form that was no more direct than the form chosen by the taxpayer. Thus, the mere fact that a taxpayer considers the federal income tax effects of a transaction in its planning should not transform a non-taxable event into a taxable event.

2. Analysis.

The Trust's contractual arrangements should be respected according to their form because their form is consistent with the underlying substance, *i.e.*, the acquisition by the Beneficial Owners of an undivided fractional interest in the Property, and there is a substantial business purpose for such form. Moreover, the allocation of all economic benefits and burdens associated with the Property corresponds to the respective Interest in the Trust owned by each Beneficial Owner such that the substance of the economic arrangement among the parties is consistent with the form.

The step transaction doctrine should not be applicable to the Trust's contractual arrangements. In this case, the Beneficial Owners constitute a separate, diverse, and unrelated group desiring to acquire a portion of the Property as offered by the Trust under a private placement of the Interests. Thus, the ultimate result of the contractual arrangements (*i.e.*, collective ownership of the Property by an unrelated group of Beneficial Owners) can only be achieved if the intermediate steps of (i) the Trust acquiring the Property, and (ii) offering the Interests for sale to the Beneficial Owners is first undertaken. Thus, the step transaction doctrine should not be applied to recharacterize the transaction steps utilized to implement the proposed contractual arrangement. Moreover, even if the IRS were to collapse the transaction steps together, the resulting transaction (a direct

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174 *Id*.

175 490 F.2d 241, 247 (2d Cir. 1973).

176 *Id*. at 245.

177 *Id.* at 247 ("We are not so naive as to believe that tax considerations played no role in Grove's planning. But foresight and planning do not transform a non-taxable event into one that is taxable. Were we to adopt the Commissioner's view, we would be required to recast two actual transactions—a gift by Grove to RPI and a redemption from RPI by the Corporation—into two completely fictional transactions—a redemption from Grove by the Corporation and a gift by Grove to RPI. Based upon the facts as found by the Tax Court, we can discover no basis for elevating the Commissioner's 'form' over that employed by the taxpayer in good faith.").

purchase of the Property by the Beneficial Owners) should not significantly change the resulting federal income tax effect of the Trust's contractual arrangements.

Baker McKenzie.

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A number of issues discussed in this opinion have not been definitively resolved by statutes, regulations, rulings, or judicial opinions. Accordingly, no assurances can be given that the conclusions expressed herein will be accepted by the IRS, or, if contested, would be sustained by a court, or that legislative changes or administrative pronouncements or court decisions may not be forthcoming that would significantly alter or modify the conclusions expressed herein. Each prospective Purchaser must consult its own tax counsel about the tax consequences of an investment in an Interest, including the tax consequences applicable to such prospective Purchaser under the TCJA.

This opinion is solely for your information and assistance with respect to the sale of Interests in the Property. Each prospective Purchaser is encouraged to consult with its tax advisor in determining whether to purchase an Interest. Other than as set forth herein, this opinion may not be relied upon, circulated, quoted, or otherwise referred to by any other person or for any other purpose, including in connection with any other transaction or arrangement, nor may copies of this opinion be delivered to any other person without our prior written consent. This opinion does not address any tax consequences of the acquisition of an Interest other than those specifically addressed herein. This opinion is not applicable as to any individual tax consequences of a Purchaser or the individual application of the Section 1031 rules to such Purchaser. Our willingness to render the opinion set forth herein neither implies, nor should be viewed as implying, any approval or recommendation of an investment in the Property.

In rendering our opinion, we have considered the applicable provisions of the Code, final, temporary, and proposed regulations thereunder, pertinent judicial authorities, interpretive rulings and revenue procedures issued by the IRS and such other authorities as we have considered relevant as of the date of this opinion. It should be noted that statutes, regulations, judicial decisions, and administrative interpretations are subject to change at any time and, in some cases, with retroactive effect. This opinion is not binding upon the IRS or courts of applicable jurisdiction, which may disagree with all or any portion of the opinion expressed herein. We undertake no obligation to update the opinions expressed herein after the date of this letter. Furthermore, our opinion is conditioned upon the accuracy and completeness of the representations set forth in the Representation Letter. This opinion does not address any other tax consequences of the acquisition of an Interest. In addition, the opinions and conclusions contained herein are based upon Baker & McKenzie LLP's review of the DST Transaction Documents, the Representation Letter, and the documents obtained and reviewed while conducting due diligence in the course of preparing the Offering. As a result, the opinions and conclusions contained herein cannot and do not speak to any facts or analysis relating to documents, arrangements, or other items not obtained prior to the date of this opinion or the Offering.

****

This opinion is written to support the promotion and marketing of the proposed transaction, and each prospective Purchaser should seek advice based on the Purchaser's particular circumstances from an independent tax advisor.

****

Baker McKenzie.

We are furnishing this opinion solely in connection with the sale of the Interests described herein. Accordingly, the Trust may only circulate this opinion in connection with the sale of the Interests to potential Purchasers. This opinion may be relied upon by Purchasers in connection with their purchase of Interests, but may not be relied upon, circulated, quoted, or otherwise referred to by any other person or for any other purpose, including in connection with any other transaction or arrangement, nor may copies of this opinion be delivered to any other person without our prior written consent.

Very truly yours,



Baker & McKenzie LLP

EXHIBIT G

INVESTOR QUESTIONNAIRE AND PURCHASE AGREEMENT

[ATTACHED]

Memorandum Number:_____



FREX DB SERIES I DST
Investor Questionnaire & Purchase Agreement

Dear Investor:

We would like to take this opportunity to thank you for your interest in FREX DB Series I DST, a Delaware statutory trust (the "**Trust**"). Capitalized terms used but not defined herein shall have the meanings given to them in the Amended and Restated Trust Agreement of the Trust (as amended from time to time, the "**Trust Agreement**"). In order to complete the closing of this transaction, please provide the following information regarding your desired investment:

Type of Investment:

☐ Section 1031 or Section 1033 tax-deferred exchange. (If selected, please complete Section III).

Anticipated or actual closing date of the sale of relinquished property: _____/_____/_____
Relinquished property tax basis
(Current basis, if available. If not, as reported on last tax return): $_____
Relinquished property proceeds: $_____
Relinquished debt: $_____

Is this a Section 1033 exchange? ☐ Yes ☐ No

☐ Cash Investment.

Subscription Amount: $_____

Funds to Close: Please indicate how you will be purchasing your interest.

☐ Funds will be wired or sent via ACH by my qualified intermediary (the holder of the exchange proceeds from my relinquished property).

☐ Funds will be wired or sent via ACH by me.

Note: Cash, checks, cashier's checks, official bank checks in bearer form, foreign checks, money orders, third party checks, or traveler's checks will not be accepted.

Ownership Information/Registration Name:_____
Please note that if this is a Section 1031 or Section 1033 tax-deferred exchange, the replacement property must be held in exactly the same name as the relinquished property. List the name(s) exactly as they appeared on the title of the relinquished property.

In addition, in order to complete the closing of your investment, the following information is required:

- **Investor Questionnaire** (attached): please complete, sign and date.
- **Purchase Agreement** (attached): please complete, sign and date.

☐ **Individual (Including IRAs)**[1]

Investor must provide:

- Valid government-issued photo ID (Driver's License or Passport)
- IRS Form W-9 (U.S. Investor) or W-8 BEN (Non-U.S. Investor)
- Accreditation Letter (attached) or other supporting documentation evidencing the Investor's "accredited investor status

☐ **Joint Tenants with Right of Survivorship**[1]

Both investors must provide:

- Valid government-issued photo ID
- IRS Form W-9 or W-8 BEN
- Accreditation Letter (attached) or other supporting documentation evidencing the Investors' "accredited investor status

☐ **Tenants in Common**[1]

Both Investors must provide:

- Valid government-issued photo ID
- IRS Form W-9 or W-8 BEN
- Accreditation Letter (attached) or other supporting documentation evidencing the Investors' "accredited investor status

☐ **Community Property**[1]

Both Investors must provide:

- Valid government-issued photo ID
- IRS Form W-9 or W-8 BEN
- Accreditation Letter (attached) or other supporting documentation evidencing the Investors' "accredited investor status

☐ **Trust**[2]

☐ Revocable

☐ Irrevocable

In each case, Investor must provide:

- Trust Deed with details:
  - Trust name, nature/purpose, registered address and country of establishment
  - Details of all Settlors, Trustees, and Beneficiaries (only those with 25%+ interests) as well as any other individuals / entities who can exercise control over the Trust
- Trust Agreement, as amended, including evidence of signing authority
- Valid government-issued photo ID for one trustee or one settlor
- Completed W-9 (U.S.) or W-8BEN-E/W-8IMY (Non-U.S.) for the subscribing entity and for one trustee or one settlor listed within the trust
- Accreditation Letter (attached) or other supporting documentation evidencing the Investor's "accredited investor status

☐ **Company or Corporation**[3]

☐ S-Corp

☐ C-Corp

In each case, Investor must provide:

- Certificate of Formation or equivalent (**Note**: Any government issued registration certificate will suffice)
- Corporate Bylaws, Resolutions, Incumbency Certificate, etc., amended, including evidence of signing authority

[1] Please complete Section 1.A.

[2] Please complete Section 1.B.

[3] Please complete Section 1.C.

- The Beneficial Owners Exhibit/Register of Shareholders.
- Photo ID for Beneficial Owners (25%+ ownership) and a control person
- IRS Form W-9 (U.S.) or W-8BEN-E/W-8IMY (Non-U.S.) for the subscribing entity and for each Beneficial Owner greater than 25%
- Accreditation Letter (attached) or other supporting documentation evidencing the Investor's "accredited investor" status

☐ **Partnership**

In each case, Investor must provide:

- Certificate of Formation or equivalent (**Note**: Any government issued registration certificate will suffice)
- Partnership Agreement, Resolutions, Incumbency Certificate, etc., as amended, including evidence of signing authority
- The Beneficial Owners Exhibit/Register of Partners
- Photo ID for Beneficial Owners (25%+ ownership) and a control person
- IRS Form W-9 (U.S.) or W-8BEN-E/W-8IMY (Non-U.S.) for the subscribing entity and for each Beneficial Owner greater than 25%
- Accreditation Letter (attached) or other supporting documentation evidencing the Investor's "accredited investor status

☐ **Limited Liability Company**

In each case, Investor must provide:

- Certificate of Formation or equivalent (**Note**: Any government issued registration certificate will suffice)
- LLC Agreement, Resolutions, Incumbency Certificate, etc., as amended, including evidence of signing authority
- The Beneficial Owners Exhibit/Register of Members
- Photo ID for Beneficial Owners (25%+ ownership) and a control person
- IRS Form W-9 (U.S.) or W-8BEN-E/W-8IMY (Non-U.S.) for the subscribing entity and for each Beneficial Owner greater than 25%
- Accreditation Letter (attached) or other supporting documentation evidencing the Investor's "accredited investor status

Note: If the Beneficial Owners Exhibit or Incumbency certificate isn't completed, the Article of Organization or Operating Agreement containing the required information will be accepted instead

Please complete and return all documentation to via email to ops@orchardsecurities.com.

Name of Trust or Business Entity (if applicable): _____

Name of Primary Investor or Trustee (required): ☐ Mr. ☐ Mrs. ☐ Ms. ☐ Other: (SPECIFY)

_____

Name of Joint Investor or Trustee (if applicable): ☐ Mr. ☐ Mrs. ☐ Ms. ☐ Other: (SPECIFY)

_____

Street Address (required – no P.O. box): _____

City: _____ **State**: _____ **Zip**: _____

Street Address of Permanent Residence of Primary Investor or Trustee (required, if different from above – no P.O. box): _____

City: _____ **State**: _____ **Zip**: _____

Street Address of Permanent Residence of Joint Investor or Trustee (if applicable, if different from above – no P.O. box): _____

City: _____ **State**: _____ **Zip**: _____

Primary Home Phone (required): _____

Secondary Home Phone (if applicable): _____

Primary Business Phone (if applicable): _____

Secondary Business Phone (if applicable): _____

Primary Email Address (required): _____

Secondary Email Address (if applicable): _____

☐ I (we) authorize the trust to make available on its website the documents and reports required to be delivered to me, and notify me via e-mail when such reports are available in lieu of receiving paper copies.

_____
(SIGNATURE REQUIRED)

Alternate Mailing Address or P.O. Box: _____

City: _____ **State**: _____ **Zip**: _____

Investor Date of Birth (MM/DD/YYYY):	**Joint Investor Date of Birth (MM/DD/YYYY)**:	**Entity Tax ID #**:
_____	_____	_____
Investor SSN#:	**Joint Investor SSN#**:	**Entity Formation Date**:
_____	_____	_____

Please indicate Citizenship Status: If a box is not checked, U.S. Citizenship will be applied by default.

☐ U.S. Citizen ☐ U.S. Resident Alien

If a U.S. Resident Alien, please identify Country of Citizenship: _____

DISTRIBUTION INSTRUCTIONS

Please direct distributions (Select one):

☐ VIA MAIL TO: MAILING ADDRESS OF RECORD

☐ VIA MAIL TO BANK OR BROKERAGE ACCOUNT: (Complete #1, #2, #3 and #5 in the box below.)

☐ VIA ELECTRONIC DEPOSIT (ACH) TO: (Complete #1 through #5 and attach a voided check.)

1. _____

Name of Bank, Brokerage Firm or Individual

2. _____

Mailing Address

3. _____

City, State, Zip Code

4. _____

Bank ABA Number

5. _____

Account Number

☐ Checking ☐ Savings

Electronic Deposit (ACH) Authorization – I (we) authorize FREX Manager Series I LLC (the "**Manager**") to deposit distributions from my (our) interest in FREX DB Series I DST to my (our) account indicated above at the depository financial institution (the "**Depository**") indicated above. I (we) acknowledge that the origination of ACH transactions to my (our) account must comply with the provisions of U.S. law. I (we) further authorize the Manager to debit my (our) account noted below in the event that the Manager erroneously deposits additional funds to which I (we) am (are) not entitled, provided that such debit shall not exceed the original amount of the erroneous deposit. In the event that I (we) withdraw funds erroneously deposited into my (our) account before the Manager reverses such deposit, I (we) agree that the Manager has the right to retain any future distributions to which I (we) am (are) entitled until the erroneously deposited amounts are recovered by the Manager. This authorization is to remain in full force and effect until the Manager has received written notification from me (or either of us) of its termination in such time and in such manner as to afford the Manager and the Depository a reasonable opportunity to act on it or until the Manager has sent me written notice of termination of this authorization.

The signature(s) of all prospective purchasers of record are required.

_____ _____

Signature of Investor Signature of Co-Investor (if applicable)

For questions or assistance, please contact (801) 316-4301 or ops@orchardsecurities.com.

THE INTERESTS OFFERED BY THE PRIVATE PLACEMENT MEMORANDUM HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE LAWS OF ANY STATE, AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE PROVISIONS OF THE SECURITIES ACT AND APPLICABLE STATE LAW. THE INTERESTS HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON, OR ENDORSED THE MERITS OF, THE OFFERING OR THE ACCURACY OR ADEQUACY OF THE PRIVATE PLACEMENT MEMORANDUM.

FREX DB SERIES I DST
BROKER-DEALER / REGISTERED INVESTMENT ADVISER REPRESENTATIONS AND WARRANTIES

Investor suitability requirements have been established by FREX DB Series I DST, a Delaware statutory trust (the "**Trust**") and fully disclosed in the Trust's Private Placement Memorandum (the "**Memorandum**") under *"Who May Invest"* and in the Purchase Agreement. Before recommending the purchase of an Interest (as defined herein), we have reasonable grounds to believe, on the basis of information supplied by the investor concerning his, her, or its investment objectives, other investments, financial situation and needs, and other pertinent information that: (i) the investor is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**"), and the undersigned has taken all steps necessary to confirm such "accredited investor" status as required pursuant to Rule 506(c) of Regulation D promulgated under the Securities Act, (ii) the investor meets the investor suitability requirements as set forth in the Memorandum and the Purchase Agreement, (iii) the investor has a net worth and income sufficient to sustain the risks inherent in the Interests, including loss of investment and lack of liquidity, (iv) the Interests are otherwise a suitable purchase for the investor. We will maintain in our files documents disclosing the basis upon which the suitability of this investor was determined as well as documents establishing a pre-existing relationship with the investor.

The Offering (as defined herein) is being made in reliance on Rule 506(c) of Regulation D promulgated under the Securities Act. The undersigned certifies that it has complied with all of the requirements of Rule 506(c) of Regulation D promulgated under the Securities Act, including with respect to the determination of the "accredited investor" status of any investor recommended by the broker-dealer / registered investment advisor for the purchase of Interests. The undersigned hereby certifies that the investor is an "accredited investor" and that the undersigned has made the determination of "accredited investor" status within the past three (3) months.

We verify that the below subscription or equity investment either does not involve a discretionary account or, if so, that the investor's prior written approval was obtained relating to the liquidity and marketability of the Interests during the term of the purchase.

We hereby certify that the broker-dealer, registered representative, or registered investment advisor is not or has not been subject to any disqualified or disclosure events as set forth in Rule 506(d) and Rule 506(e) of Regulation D promulgated under the Securities Act.

We affirm the broker-dealer, registered representative, or registered investment advisor are properly licensed in the state of residence of the investor.

Except as otherwise stated, the representations and warranties made herein are made as of the date hereof and shall be continuing representations and warranties. In the event that the registered representative, broker-dealer, or registered investment advisor becomes aware that any of these representations or warranties becomes untrue or is incorrect, it shall promptly notify FREX DB Series I DST in writing of the fact which makes such representation or warranty untrue or incorrect.

[Signatures on Next Page]

Name of Investor: _____

Broker Dealer Principal or RIA Principal APPROVAL

By signing below, you acknowledge that a Principal of the Broker Dealer or Registered Investment Advisor has reviewed and approves the submission of the attached Purchase Agreement.

Signature: _____ Date: _____

Printed Name: _____

B/D or RIA Name: _____

Address: _____

City / State / Zip: _____

Phone No.: _____

Rep's E-mail Address: _____

Financial Advisor of Broker Dealer or RIA APPROVAL AND CERTIFICATION

By signing below, the Financial Advisor acknowledges that he or she has reviewed and approves the submission of the attached Purchase Agreement and makes the certification below.

The undersigned Financial Advisor hereby represents and warrants that he or she will comply with the applicable requirements of the Securities Act of 1933, as amended (the "**Securities Act**"), and the published rules and regulations of the Securities and Exchange Commission thereunder, and applicable blue sky or other state securities laws, as well as the rules and regulations of FINRA or any other applicable regulatory authority. The undersigned further represents and warrants that he or she is not subject to any of the "bad actor" disqualifications described in Rule 506(d) under the Securities Act, except for such event: (1) contemplated by Rule 506(d)(2) of the Securities Act, and (2) a reasonably detailed description of which has been furnished to FREX DB Series I DST in writing.

Signature: _____ Date: _____

Printed Name/Rep Code: _____

Address: _____

City / State / Zip: _____

Phone No.: _____

Rep's E-mail Address: _____

B/D or RIA Name: _____

Dealer Number: _____

Branch Number: _____

Advisor Number: _____ BIN Number: _____

Fee waiver (stated as a percentage, if applicable): _____%

Purchase Price, including all fees and expenses, even if such fees and expenses are waived in whole or in part: $_____

Internal Use Only: SDA Date: _____

ACCREDITED INVESTOR VERIFICATION

NOTE: TO BE COMPLETED ONLY BY ALL INVESTORS.

Investor Name: _____

NOTE: THIS ACCREDITATION LETTER (OR DOCUMENTATION OTHERWISE MATERIALLY IDENTICAL IN SUBSTANCE) IS REQUIRED TO BE COMPLETED AND PROVIDED ON BEHALF OF EACH INVESTOR.

TO BE PREPARED BY THE INVESTOR'S THIRD-PARTY LICENSED ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, AN SEC-REGISTERED INVESTMENT ADVISER, A REGISTERED BROKER-DEALER, OR SUCH OTHER THIRD PARTY PROFESSIONAL (I) WHO SHALL TAKE REASONABLE STEPS TO VERIFY AND HAS DETERMINED THAT SUCH INVESTOR IS AN ACCREDITED INVESTOR AND (II) THE TRUST HAS A REASONABLE BASIS TO RELY ON SUCH VERIFICATION.

In connection with a proposed investment pursuant to Rule 506(c) of Regulation D under the Securities Act of 1933, as amended (the "**Securities Act**"), I hereby confirm that, as of the date set forth below, _____ is/are "accredited investor(s)" as defined in Rule 501(a) of Regulation D under the Securities Act.

In making this determination, I have reviewed selected documents and information and determined within the ***prior three months***:

(INITIAL ONE OF THE OPTIONS BELOW)

_____ With respect to **Income**: Any Internal Revenue Service form that reports the Investor's income (including, but not limited to, Form W–2, Form 1099, Schedule K–1 of Form 1065, and Form 1040) or such other documentation that provides me with a reasonable basis to verify that the Investor has the income level necessary to qualify as an "accredited investor" during the current year;

_____ With respect to **Net Worth**: Such asset and liability documentation that provides me with a reasonable basis to verify that the Investor has the net worth level necessary to qualify as an "accredited investor" during the current year. Documentation may include bank statements, brokerage statements and other statements of securities holdings, certificates of deposit, tax assessments, appraisal reports issued by independent third parties, and/or such other comparable documentation to determine real property and other asset valuation and debt, as applicable; liabilities may be determined through a consumer report or credit report from at least one of the nationwide consumer reporting agencies.

I am a/an _____ (attorney, CPA, broker-dealer, investment adviser, or third-party professional).

- If applicable, my license number is _____ and, I am in good standing in the state of _____.

Sincerely,

_____

Printed Name: _____

Date: _____

Phone Number: _____

FREX DB SERIES I DST

Instructions to Investor Questionnaire & Purchase Agreement

Please read carefully the Private Placement Memorandum for the beneficial ownership interests (each, an "**Interest**") in FREX DB Series I DST, a Delaware statutory trust, (the "**Trust**"), dated March 23, 2026 (as amended and supplemented from time to time, the "**Private Placement Memorandum**"), and all exhibits thereto, before deciding to purchase the Interests.

This private offering of Interests is limited to a purchaser who certifies that he, she or it is an "accredited investor," as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended, and meets all of the qualifications set forth in the Private Placement Memorandum. If you meet these qualifications and desire to purchase an Interest, then please follow the instructions below to complete your purchase.

EACH PROSPECTIVE PURCHASER SHOULD EXAMINE THE SUITABILITY OF THIS TYPE OF PURCHASE OF SECURITIES IN THE CONTEXT OF HIS, HER OR ITS OWN NEEDS, PURCHASE OBJECTIVES AND FINANCIAL CAPABILITIES AND SHOULD MAKE HIS, HER OR ITS OWN INDEPENDENT INVESTIGATION AND DECISION AS TO SUITABILITY AND RISK. IN ADDITION, EACH PROSPECTIVE PURCHASER IS ENCOURAGED TO CONSULT WITH HIS, HER OR ITS ATTORNEY, ACCOUNTANT, FINANCIAL CONSULTANT OR OTHER BUSINESS OR TAX ADVISOR REGARDING THE RISKS AND MERITS OF THE PROPOSED PURCHASE.

INSTRUCTIONS TO INVESTORS FOR PURCHASING INTERESTS:

1. This Investor Questionnaire & Purchase Agreement is comprised of two parts – the Investor Questionnaire and the Purchase Agreement, each of which is accompanied by specific instructions. You must complete, sign and date both parts of the Investor Questionnaire & Purchase Agreement according to the instructions provided**.** Deliver the completed and signed Investor Questionnaire & Purchase Agreement to your financial advisor.

2. Your financial advisor will forward the documents to his/her Broker Dealer or Registered Investment Advisor. The Broker Dealer or Registered Investment Advisor will then forward the documents via email to ops@orchardsecurities.com.

3. If your investment is part of an Internal Revenue Code Section 1031 ("**Section 1031**") tax-deferred exchange: The Trust and the qualified intermediary (the holder of the exchange proceeds from your relinquished property) will coordinate the payment for the purchase of the Interests. Upon receiving the Purchase Agreement, and the necessary wiring/escrow instructions from the Trust, as applicable, the qualified intermediary will wire the funds to the Trust.

4. If your investment is a direct investment: Payment for the purchase of Interests may be made by wiring the funds directly to the Trust (the preferred method). The Trust will provide wiring/escrow instructions, as applicable, prior to the closing of the transaction.

   Please note that investments will not be accepted from, or on behalf of tax-exempt entities, including but not limited to qualified employee pension and *profit sharing trusts, individual retirement accounts, SIMPLE 401(k) plans, annuities and charitable remainder trusts.*

INVESTOR QUESTIONNAIRE
SECTION I – OWNERSHIP AND INVESTMENT INFORMATION

A. IF THE INVESTOR IS AN INDIVIDUAL, PLEASE COMPLETE THE FOLLOWING:

Each Investor must initial the statement or statements below that truthfully describe him or her:

_____ _____ I am a natural person whose individual net worth or joint net worth with my spouse,[4] exceeds $1,000,000 at the time of purchasing the Interests; provided, that for purposes of calculating such net worth: (1) my primary residence shall not be included as an asset; (2) indebtedness that is secured by my primary residence, up to the estimated fair market value of the primary residence at the time of the closing of my acquisition of the Interests, shall not be included as a liability; provided, however, that if the amount of such indebtedness outstanding at the time of the closing of my acquisition of the Interests exceeds the amount of indebtedness outstanding 60 days before such time, other than as a result of the acquisition of the primary residence (such as, for example, if I take out a home equity loan that is not used to acquire a primary residence during such 60-day time frame), the amount of such new indebtedness shall be included as a liability; and (3) indebtedness that is secured by my primary residence in excess of the estimated fair market value of the primary residence shall be included as a liability.

_____ _____ I am a natural person who had an individual income in excess of $200,000 in each of the two most recent preceding full calendar years or joint income with my spouse in excess of $300,000 in each of those years, and I have (individually or with my spouse) a reasonable expectation of reaching the same income level in the current year.

_____ _____ I am a director, executive officer, general partner, or person serving in a similar capacity of (1) the Trust; (2) FREX Manager Series I LLC (the "**Manager**"); or (3) any of the Manager's managing Affiliates.

_____ _____ I am an employee of (1) the Manager or any of the Manager's Affiliates who in such role has participated in investment activities of the Trust or one or more other affiliated investment vehicles; or (2) an unaffiliated Section 3(c)(1) or 3(c)(7) fund or any of its managing entities who, in such role, has participated in the investment activities of the Trust, in either case for at least the past 12 months in connection with my regular job duties.

_____ _____ I am a natural person (1) holding a Series 7, 65 or 82 license issued by the Financial Industry Regulatory Authority ("**FINRA**"); and (2) whose license remains in good standing.[5]

After completing this page, you may proceed to Section II.

[4] The term "spouse" includes a "spousal equivalent" which is defined as a cohabitant occupying a relationship generally equivalent to that of a spouse.

[5] Investors making this election must enclose with their completed Investor Questionnaire and Purchase Agreement a detailed report from FINRA's BrokerCheck website (https://brokercheck.finra.org/) (A) verifying that the Investor passed a Series 7, Series 65 or Series 82 exam, and (B) confirming that his or her license remains in good standing.

B. IF THE INVESTOR IS A TRUST, PLEASE COMPLETE THE FOLLOWING:

Please complete a Trust Certificate (Appendix A) and submit a copy of the Trust Agreement and any amendments.

Please note: If an Investor is purchasing Interests through a trust that is a taxpaying entity, then all trustees must complete and execute the Investor Questionnaire on behalf of the trust and all questions concerning income, assets, and accreditation will pertain to the trust. If, on the other hand, the trust is not the taxpaying entity with respect to this investment (e.g., a grantor trust), then the person paying the tax on the trust's income (the "**taxpayer**") must complete and execute the Investor Questionnaire and all questions concerning income, and assets will pertain to the taxpayer.

Please select the appropriate type of trust below and initial accordingly.

Revocable Trusts: **Please initial the statement or statements below that truthfully describe the purchaser**:

_____ _____ Purchaser is a revocable trust: (1) not formed for the specific purpose of acquiring the securities offered; (2) with total assets in excess of $5,000,000; and (3) with the power and authority to execute and comply with the terms of the Purchase Agreement.

_____ _____ Purchaser is a revocable trust in which the trustee, or co-trustee, is a bank, insurance company, registered investment company, business development company, or small investment company.

_____ _____ Purchaser is a trust in which each grantor is either:

(a) a natural person whose individual net worth or joint net worth with that person's spouse, exceeds $1,000,000 at the time of purchasing the Interests; provided, that for purposes of calculating such net worth: (1) the person's primary residence shall not be included as an asset; (2) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the closing of the person's acquisition of the Interests, shall not be included as a liability; provided, however, that if the amount of such indebtedness outstanding at the time of the closing of the person's acquisition of the Interests exceeds the amount of indebtedness outstanding 60 days before such time, other than as a result of the acquisition of the primary residence (such as, for example, if the person takes out a home equity loan that is not used to acquire a primary residence during such 60-day time frame), the amount of such new indebtedness shall be included as a liability; and (3) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence shall be included as a liability; OR

(b) a natural person who had individual income in excess of $200,000 in each of the two most recent preceding full calendar years or joint income with their spouse in excess of $300,000 in each of those years, and who has (individually or with their spouse) a reasonable expectation of reaching the same income level in the current year.

Irrevocable Trusts: **Please initial the statement below that truthfully describes the purchaser**:

_____ _____ Purchaser is an irrevocable trust: (1) not formed for the specific purpose of acquiring the securities offered; (2) with total assets in excess of $5,000,000; and (3) with the power and authority to execute and comply with the terms of the Purchase Agreement.

_____ _____ Purchaser is a trust in which the trustee, or co-trustee, of the trust is a bank, insurance company, registered investment company, business development company, or small investment company.

_____ _____ Purchaser is an irrevocable trust: (1) that satisfies all of the characteristics set forth in Question 255.24 of the SEC's Compliance and Disclosure Interpretations; and (2) whose grantor satisfies one or more of the accreditation standards set forth in this Investor Questionnaire.

After completing this page, you may proceed to Section II.

C. IF THE INVESTOR IS AN ENTITY (CORPORATION, PARTNERSHIP, LLC, ETC.), PLEASE COMPLETE THE FOLLOWING:

Names of Equity Owners/Signatories:	Ownership Percentage (must total 100%):
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____

Type of ownership: ☐ Corporation ☐ Partnership ☐ Limited Liability Company ☐ Other: _____

Corporation – If purchasing as a **corporation**, the Investor must submit the following: (1) a copy of the corporation's bylaws, with any and all amendments; (2) a completed Incumbency Certificate (Appendix B); and (3) a completed Corporate Resolution or Officer's Certificate (Appendix C or Appendix D).

Partnership – If purchasing as a **partnership**, the Investor must submit the following: (1) a copy of the Partnership Agreement, with any and all amendments; and (2) a completed Partnership Resolution (Appendix E).

Limited Liability Company – If purchasing as a **limited liability company**, the Investor must submit the following: (1) a copy of the Limited Liability Company Agreement, with any and all amendments; and (2) a completed LLC Resolution (Appendix F).

Please initial the statement or statements below that truthfully describe the purchaser:

_____ _____ Purchaser is a corporation, a business trust, a partnership, a limited liability company, an Indian tribe, a labor union, a governmental body or fund, or an entity organized under the laws of a country other than the United States of America: (1) not formed for the specific purpose of acquiring the securities offered; (2) with total assets in excess of $5,000,000; and (3) with the power and authority to execute and comply with the terms of this Investor Questionnaire and Purchase Agreement.

_____ _____ Purchaser is any of the following: (1) a bank or savings and loan association or other institution acting in its individual or fiduciary capacity; (2) a broker or dealer; (3) an insurance company; (4) an investment company or a business development company under the Investment Company Act of 1940, as amended; (5) a private business development company under the Investment Advisers Act of 1940, as amended (the "**Advisers Act**"); or (6) a Small Business Investment Company licensed by the U.S. Small Business Administration.

_____ _____ Purchaser is an entity in which all the equity owners are either:

(a) natural persons whose individual net worth or joint net worth with that person's spouse, exceeds $1,000,000 at the time of purchasing the Interests; provided, that for purposes of calculating such net worth: (1) the person's primary residence shall not be included as an asset; (2) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the closing of the person's acquisition of the Interests, shall not be included as a liability; provided, however, that if the amount of such indebtedness outstanding at the time of the closing of the person's acquisition of the Interests exceeds the amount of indebtedness outstanding 60 days before such time, other than as a result of the acquisition of the primary residence (such as, for example, if the person takes out a home equity loan that is not used to acquire a primary residence during such 60-day time frame), the amount of such new indebtedness shall be included as a liability; and (3) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence shall be included as a liability; OR

(b) natural persons who had individual income in excess of $200,000 in each of the two most recent preceding full calendar years or joint income with their spouse in excess of $300,000 in each of those years, and who have (individually or with their spouse) a reasonable expectation of reaching the same income level in the current year.

_____ _____ Purchaser is either (1) registered with the United States Securities and Exchange Commission as an investment adviser or an exempt reporting adviser under Section 203 of the Advisers Act; or (2) registered as an investment adviser or equivalent under the laws of any state of the United States of America.

_____ _____ Purchaser is a "rural business investment company" as defined in Section 384A of the Consolidated Farm and Rural Development Act, as amended.

_____ _____ Purchaser is a "family office" or "family client" (each as defined in Rule 202(a)(11)(G)-1 of the Advisers Act) that (1) has at least $5,000,000 in assets under management; (2) was not formed for the specific purpose of acquiring the securities offered; and (3) is directed by a person who has such knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of purchasing Interests.

SECTION III – QUALIFIED INTERMEDIARY INFORMATION

I (we) hereby provide the following information pertaining to my (our) Qualified Intermediary for this acquisition. I (we) request and authorize my (our) Qualified intermediary to furnish the Trust any information requested regarding my (our) Section 1031 exchange.

The following Qualified Intermediary is authorized and instructed to fund all equity due to close the transaction prior to the scheduled closing date:

Company Name: _____

Exchange Coordinator: _____

Address: _____

City / State / Zip Code: _____

Telephone No.: _____

Facsimile No.: _____

E-mail Address (required): _____

Is escrow closed (please check one): _____ Yes_____ No

Closing date of relinquished property: _____

I (we) instruct my (our) Qualified Intermediary to wire (check only one box):

☐ All funds held by the Qualified Intermediary in the qualified escrow account, which is $_____, excluding any accumulated interest and expenses that cause the amount to be less than a whole dollar (rounding up or down), with the understanding that these costs will be treated as boot.

☐ Only $_____ held by the Qualified Intermediary in the qualified escrow account.

APPENDIX A – TRUST CERTIFICATE
NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A TRUST.

1. The title of the Trust to which this Certificate applies is: _____

2. The date of the Trust Agreement is: _____

3. The date of the last amendment to the Trust Agreement (if any) is: _____

4. The grantor(s) or testator(s) of the Trust is/are: _____

5. FREX DB Series I DST, a Delaware statutory trust, has the authority to accept orders and other instructions relative to the Trust account from designated trustees, who are:

Trustee Name (please print)	Date of Birth	Trustee Name (please print)	Date of Birth
Trustee Name (please print)	Date of Birth	Trustee Name (please print)	Date of Birth

6. **Please select one of the following three options**:

   ☐ The trustee(s) listed above may act independently as provided in the Trust Agreement, and the execution by any one trustee can bind the Trust.

   ☐ The trustees listed above may act as a majority as provided in the Trust Agreement.

   ☐ The trustee(s) listed above must act unanimously as provided in the Trust Agreement, and the execution or authorization of all of the trustees is required to bind the Trust.

7. The undersigned, constituting all of the trustee(s) of the Trust, hereby certify as follows:

   a) A true and correct copy of the Trust Agreement is attached hereto and that, as of the date hereof, the Trust Agreement has not been amended (except as to any attached amendments) or revoked and is still in full force and effect.

   b) As the trustee(s) of the Trust, we have determined that the investment in, and purchase of Interests in FREX DB Series I DST is authorized by the terms of the Trust Agreement and is of benefit to the Trust, and we have determined to make such investment on behalf of the Trust.

   c) We, the trustees, jointly and severally, indemnify FREX DB Series I DST and hold FREX DB Series I DST harmless from and against any liability relating to any orders, transactions, instructions or directions given by any individuals listed in this Certificate.

All trustees must sign and date below.

Trustee Signature	Date	Trustee Signature	Date
Trustee Signature	Date	Trustee Signature	Date

APPENDIX B – INCUMBENCY CERTIFICATE

NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION.

_____

Name of Corporation

_____

State of Incorporation

The undersigned hereby certifies that the following persons are the duly elected directors and officers, respectively, of _____, a/an _____ corporation.

_____ Director	_____ Director
_____ Director	_____ Director
_____ Director	_____ Director
_____ President	_____ Vice President
_____ Treasurer	_____ Secretary

Dated effective _____, 20_____

_____ a/an

_____ corporation

By: _____

Name: _____

Title: _____

APPENDIX C – CORPORATE RESOLUTION

NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION.
ADDITIONAL NOTE: APPENDIX D MAY BE PROVIDED AS AN ALTERNATIVE TO THIS APPENDIX C.

The undersigned, being all the members of the Board of Directors (the "**Board of Directors**") of _____, a/an _____ corporation (the "**Corporation**"), hereby adopt the following preambles and resolutions:

WHEREAS, the Corporation desires to purchase an interest in FREX DB Series I DST (the "**Investment**");

WHEREAS, the Corporation is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Board of Directors believes it to be in the best interest of the Corporation to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Board of Directors in all respects;

FURTHER RESOLVED, that _____, an officer of the Corporation ("**Officer**"), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the Corporation, with such changes therein and additions thereto as the Officer may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Officer is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the Corporation, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the Corporation or the Officer in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Dated effective _____, 20____

_____	_____
Director (signature)	Director (signature)
_____	_____
Director (signature)	Director (signature)
_____	_____
Director (signature)	Director (signature)

Being all of the Directors of the Corporation

APPENDIX D – OFFICER'S CERTIFICATE

NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A CORPORATION.
ADDITIONAL NOTE: APPENDIX C MAY BE PROVIDED AS AN ALTERNATIVE TO THIS APPENDIX D.

The undersigned, _____, hereby certifies that:

1. _____ is the _____ of _____, a/an _____ corporation ("**Corporation**"), and has personal knowledge of the matters set forth herein.

2. This Certificate is executed to evidence the approval and consent of the Corporation to purchase an interest in FREX DB Series I DST (the "**Investment**").

3. The undersigned acknowledges that the Corporation is authorized to execute and deliver all documents relating to the Investment.

4. Pursuant to the organizational documents of the Corporation, the specific consent or approval of the Board of Directors of the Corporation is not necessary for the consummation of the Investment.

5. The undersigned acting alone has the authority, pursuant to the organizational documents of the Corporation, to execute all documents related to the Investment.

6. This Certificate may be relied upon by FREX DB Series I DST and its Affiliates.

Dated effective _____, 20_____

By: _____

Name: _____

Title: _____

APPENDIX E – PARTNERSHIP RESOLUTION
NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A PARTNERSHIP.

The undersigned, being all the partners (the "**Partners**") of _____, a/an _____ partnership (the "**Partnership**"), hereby adopt the following preambles and resolutions:

WHEREAS, the Partnership desires to purchase an interest in FREX DB Series I DST (the "**Investment**");

WHEREAS, the Partnership is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Partners believe it to be in the best interest of the Partnership to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Partners in all respects;

FURTHER RESOLVED, that _____, an agent of the Partnership ("**Authorized Person**"), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the Partnership, with such changes therein and additions thereto as the Authorized Person may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Authorized Person is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the Partnership, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the Partnership or the Authorized Person in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Dated effective _____, 20_____

_____	_____
Partner (signature)	Partner (signature)
_____	_____
Partner (signature)	Partner (signature)
_____	_____
Partner (signature)	Partner (signature)

Being all of the Partners of the Partnership

APPENDIX F – LIMITED LIABILITY COMPANY RESOLUTION

NOTE: TO BE COMPLETED ONLY BY THOSE INVESTORS INVESTING THROUGH A LIMITED LIABILITY COMPANY.

The undersigned, being all the members (the "**Members**") of _____, a/an _____ limited liability company (the "**LLC**"), hereby adopt the following preambles and resolutions:

WHEREAS, the LLC desires to purchase an interest in FREX DB Series I DST (the "**Investment**");

WHEREAS, the LLC is authorized to execute and deliver all documents relating to the Investment; and

WHEREAS, the Members believe it to be in the best interest of the LLC to make the Investment and execute any documents related thereto.

NOW THEREFORE, BE IT RESOLVED, that the Investment is hereby approved, confirmed and ratified by the Members in all respects;

FURTHER RESOLVED, that _____, an agent of the LLC ("**Authorized Person**"), is hereby authorized and directed to execute, deliver and perform those agreements and documents related to the Investment, in the name and on behalf of the LLC, with such changes therein and additions thereto as the Authorized Person may deem necessary, appropriate or advisable to effect the transactions contemplated by the foregoing resolution;

FURTHER RESOLVED, that the Authorized Person is hereby authorized and directed to execute, deliver and perform all further instruments and documentation and to take all other actions, in the name and on behalf of the LLC, as it may deem convenient or proper to carry out the Investment; and

FURTHER RESOLVED, that any action heretofore taken and all documentation heretofore delivered by the LLC or the Authorized Person in furtherance of the Investment and foregoing resolutions are hereby ratified and confirmed in all respects.

Dated effective _____, 20_____

_____	_____
Member (signature)	Member (signature)
_____	_____
Member (signature)	Member (signature)
_____	_____
Member (signature)	Member (signature)

Being all of the Members of the LLC

PURCHASE AGREEMENT

PURCHASE AGREEMENT OF FREX DB SERIES I DST

Up to $40,178,939 of Interests

THIS PURCHASE AGREEMENT (the "**Purchase Agreement**") is made by and between FREX DB Series I DST, a Delaware statutory trust (the "**Trust**") and the undersigned (the "**Investor**") in accordance with the terms hereof. Capitalized terms used but not defined herein shall have the meanings given to them in the Amended and Restated Trust Agreement of the Trust (as amended from time to time, the "**Trust Agreement**").

RECITALS

WHEREAS, this private offering (the "**Offering**") of Class 1 Beneficial Interests issued by the Trust (the "**Interests**") is made on the terms and conditions set forth in the Trust Agreement and the Trust's Private Placement Memorandum dated March 23, 2026 (as amended, restated or supplemented from time to time, the "**Private Placement Memorandum**" and, together with the Trust Agreement and this Purchase Agreement, the "**Trust Documents**"). The Investor's subscription will be made pursuant to the Trust Documents.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as set forth below.

1. Subscription. The Investor hereby irrevocably subscribes for and agrees to purchase an Interest with a Subscription Amount equal to $_____ (the "**Subscription Amount**"), which has been accepted by FREX Manager Series I LLC (the "**Manager**"). The Investor acknowledges that its subscription is conditional and may be accepted or rejected by the Manager in its sole and absolute discretion. The Investor agrees to be bound by all the terms and provisions of the Trust Agreement.

2. Investor Payment. The Investor hereby agrees to deliver its entire Subscription Amount by wire transfer or check in accordance with the payment instructions above. The minimum amount of Interests that a prospective Investor completing an Internal Revenue Code Section 1031 ("**Section 1031**") tax-deferred exchange will be required to purchase is $100,000, and the minimum amount of Interests that a prospective Investor completing a cash investment will be required to purchase is $25,000, in either case unless the Trust waives such requirement. If the purchase of an Interest is part of a Section 1031 tax-deferred exchange, payment shall be coordinated through the Investor's qualified intermediary who holds the Investor's exchange proceeds from the relinquished property.

3. Acceptance and Subscription Amounts.

(a) The Investor understands and agrees that the Manager, in its sole and absolute discretion, reserves the right to accept or reject this or any other offer to purchase an Interest, in whole or in part. If this offer to purchase an Interest is rejected in whole or in part, or if the Manager terminates the Offering for any reason prior to accepting the Investor's Subscription Amount, the Trust will promptly return the applicable portion of the Investor's Subscription Amount, and this Purchase Agreement shall thereafter have no force or effect with respect to the rejected portion of such subscription.

(b) The Investor understands and agrees that it will be required to fund its entire Subscription Amount within five (5) Business Days after the Manager accepts this Purchase Agreement, and that such funds will be considered a Subscription Amount for purposes of the Trust Documents.

(c) The Trust owns the commercial real estate asset located in Morgantown, West Virginia, as more particularly described on **Exhibit A** attached hereto (the "**Property**").

4. Representations and Warranties of the Trust. The Trust hereby acknowledges, represents and warrants that:

(a) Status. The Trust is a validly formed and existing statutory trust under the laws of the State of Delaware.

(b) Issuance. When issued, authenticated and delivered by the Trust and paid for by the Investor pursuant to the provisions of this Purchase Agreement and the Trust Agreement, the Investor's Interests will be duly and validly issued and outstanding and entitled to the benefits provided by the Trust Agreement, except as such enforceability may be limited by the effect of (i) bankruptcy, insolvency, reorganization, receivership, moratorium or other similar laws affecting the enforcement of the rights of creditors generally, and (ii) general principles of equity, whether enforcement is sought in a proceeding in equity or at law.

5. Representations and Warranties of the Investor. The Investor hereby acknowledges, represents and warrants that:

(a) the Interests offered by the Private Placement Memorandum have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), or under the laws of any state, and are being offered and sold in reliance on exemptions from the provisions of the Securities Act and applicable state law. The Interests have not been approved or disapproved by the Securities and Exchange Commission, any state securities commission or any other regulatory authority, nor have any of the foregoing authorities passed upon, or endorsed the merits of, the offering or the accuracy or adequacy of the Private Placement Memorandum. The Investor hereby further acknowledges, represents and warrants that:

(b) the Investor has received the Private Placement Memorandum, has carefully reviewed it and understands the information contained therein and information otherwise provided in writing by the Trust relating to this investment;

(c) all documents, records and books pertaining to this investment (including, without limitation, the Private Placement Memorandum) have been made available for inspection to the Investor or the Investor's agents or advisors;

(d) the Investor, either directly or through advisors, has had a reasonable opportunity to ask questions of and receive information and answers from a person or persons acting on behalf of the Trust concerning the Offering and, as the Investor may deem necessary, to verify the information contained in the Private Placement Memorandum, and all questions have been answered and all such information has been provided to the full satisfaction of the Investor;

(e) the Investor has received such tax, legal, currency and other advice from its own professional advisers as considered necessary in relation to its prospective investment in the Trust, and has neither relied on nor has received any such advice from the Trust, the Manager or their advisers in connection therewith;

(f) it is the Investor's sole responsibility to have sufficient liquidity to fulfill its payment obligations pursuant to this Purchase Agreement;

(g) no oral or written representations have been made or oral or written information furnished to the Investor or his or her advisor(s) in connection with the Offering that were in any way inconsistent with the information stated in the Trust Documents;

(h) the Investor qualifies as an "accredited investor," as defined in Rule 501(a) of Regulation D under the Securities Act;

(i) the Investor is not purchasing the Interests on behalf of any tax-exempt entity, including but not limited to any qualified employee pension or profit sharing trust, any individual retirement account, SIMPLE 401k plan, annuity or charitable remainder trust;

(j) the Investor's overall commitment to investments that are not readily marketable is not disproportionate to the Investor's net worth and the Investor's investment in the Interests will not cause the overall commitment to become disproportionate to the Investor's net worth;

(k) the Investor has reached the age of majority, has adequate net worth and means of providing for the Investor's current needs and personal contingencies, is able to bear the substantial economic risks of an investment in the Interests for an indefinite period of time, has no need for liquidity in such investment and, at the present time, could afford a complete loss of such investment;

(l) in the event the Option Holder (as defined in the Trust Agreement) chooses to exercise the FMV Option (as defined in the Trust Agreement), the Investor may receive a class of Units as determined by the Option Holder in exchange for the Investor's Interests, which exchange shall be undertaken in a manner consistent with the disclosure provided to the Investor in the Private Placement Memorandum;

(m) Baker & McKenzie LLP represents the Trust; Fortress Investment Group LLC ("**Fortress**") and their Affiliates and does not represent, and shall not be deemed under the applicable codes of professional responsibility to have represented or to be representing the Investor;

(n) the Investor has the requisite knowledge and experience in financial and business matters so as to enable the Investor to use the information made available to evaluate the merits and risks of an investment in the Interests and to make an informed decision;

(o) the Investor is acquiring the Interests solely for his or her own account as principal, for investment purposes only and not with a view to the resale or distribution thereof in whole or in part, and no other person has a direct or beneficial interest in the Interests purchased by the Investor;

(p) the Investor will not sell or otherwise transfer his or her Interests without complying with all applicable laws and fully understands and agrees that he or she must bear the economic risk of his or her purchase for an indefinite period of time because, among other reasons, the Interests may not be readily transferable;

(q) the Investor's assets have not been the subject of any proceeding under any matter relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors ("**Creditor Rights Laws**") during the ten (10) years prior to the date hereof, nor has the Investor sought the protection of any Creditors Rights Laws during the ten (10) years prior to the date hereof. The foregoing representation with regard to this paragraph also are applicable to the Investor's Affiliates which the Investor owns or controls, including any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association and any fiduciary acting in such capacity on behalf of any of the foregoing, and further including any such entity in which the Investor or its Affiliate is an officer or director;

(r) neither the Investor, nor any partner, director, officer, or any person directly or indirectly controlling, controlled by, or under common control with the Investor, including any of its employees, is subject to any "disqualifying event" as set forth in Rule 506(d) of Regulation D under the Securities Act or any similar disqualification provision;

(s) the Investor recognizes that the purchase of the Interests involves a number of significant risks and other factors relating to the structure and objectives of the Trust as described in the Private Placement Memorandum under the heading "Risk Factors" and that there can be no assurance that the Trust will achieve its objectives. In addition, the Investor acknowledges that:

(i) no federal or state agency has passed upon the adequacy of the information presented to the Investor or made any finding or determination as to the fairness of this investment; and

(ii) there is no established market for the Interests and a public market for the Interests may never develop;

(t) the Trust has not obtained a specific Private Letter ruling from the Internal Revenue Service ("**IRS**") addressing the treatment of the Interests in this Offering for income tax purposes, including but not limited to whether an Interest is "of like kind" to real estate for purposes of Section 1031 or is "similar or related in service or use" to involuntarily converted property of the Investor for purposes of Internal Revenue Code section 1033 ("**Section 1033**"). In addition, the Investor understands that the tax consequences of an

investment in the Interests, especially the qualification of the transaction under Section 1031 or Section 1033 of the Code and the related rules, are complex and vary with the facts and circumstances of each individual. Therefore, the Investor represents and warrants that he or she: (1) has independently obtained advice from legal counsel and/or accountants about a tax-deferred exchange under Section 1031 or a conversion under Section 1033 and applicable state laws, including, without limitation, whether the acquisition of an Interest may qualify as part of a tax-deferred exchange or involuntary conversion, and he or she is relying on such advice; (2) understands that the Trust has not obtained a ruling from the IRS addressing the treatment of the Interests in this Offering for income tax purposes, including but not limited to whether an Interest is "of like-kind" to real estate for purposes of Section 1031 or is "similar or related in service or use" to involuntarily converted property of the Investor for purposes of Section 1033; (3) understands that the tax consequences of an investment in an Interest, especially the treatment of the transaction under Section 1031 and the related Section 1031 exchange rules, or under Section 1033 and its underlying rules, are complex and vary with the facts and circumstances of each individual purchaser; and (4) understands that the opinion of Baker & McKenzie LLP, as special tax counsel to the Trust, is only Baker & McKenzie LLP's view of the anticipated tax treatment, and there is no guarantee that the IRS will agree with such opinion;

(u) if the Investor is purchasing the Interests in a representative or fiduciary capacity, e.g., serving as a qualified intermediary, the representations and warranties contained herein (and in any other written statement or document delivered to the Trust in connection herewith) shall be deemed to have been made on behalf of the person or persons for whom the Interests are being purchased;

(v) all information furnished to the Trust or the Manager by the Investor is correct and complete as of the date of this Purchase Agreement, and the Investor will immediately furnish revised or corrected information to the Trust if there should be any material change in this information prior to the Trust completing the Offering;

(w) the Investor has not distributed the Private Placement Memorandum to anyone other than his or her advisors, if any, and no one other than the Investor and his or her advisors, if any, has used the Private Placement Memorandum;

(x) the foregoing representations, warranties and agreements, together with all other representations and warranties made or given by the Investor to the Trust in any other written statement or document delivered in connection with the Offering shall be true and correct in all respects on and as of the date the purchase is accepted as if made on that date. If more than one person is signing this Purchase Agreement, each representation, warranty and undertaking herein shall be the joint and several representation, warranty and undertaking of each such person;

(y) if the Investor is an entity: (i) the Investor is duly formed and validly existing and in good standing under the laws of its jurisdiction of organization; (ii) the Investor has the power and authority to enter into this Purchase Agreement, the Trust Agreement and each other document required to be executed and delivered by the Investor in connection with this subscription for Interests, and to perform its obligations thereunder and consummate the transactions contemplated thereby; and (iii) the person signing this Purchase Agreement on behalf of the Investor has been duly authorized to execute and deliver this Purchase Agreement, the Trust Agreement and each other document required to be executed and delivered by the Investor in connection with this subscription for an Interest;

(z) within five (5) days after receipt of a request from the Trust, the Investor will provide such information, representations and forms, and will promptly execute and deliver such documents, as may be reasonably requested from time to time to enable the Trust to comply with any and all laws, regulations, rulings, orders, ordinances, and/or agreements to which the Trust is subject; and

(aa) the Investor has not shared the Trust Documents with anyone other than its financial professionals, if any.

6. Additional Representations and Warranties – Section 1031 Exchanges. The following additional representations and warranties apply only to those investors purchasing Interests as part of a Section 1031 tax-deferred exchange.

(a) The Investor hereby acknowledges, represents and warrants that the Investor's rights under this Purchase Agreement may be assigned to his, her or its qualified intermediary (the "**Qualified Intermediary**") for the purpose of completing a Section 1031 exchange.

(b) The Trust hereby acknowledges, represents and warrants that:

(i) It is the intent of the Investor to effect a Section 1031 tax-deferred exchange, which will not delay the closing or cause additional expense to the Trust.

(ii) The Trust will cooperate with the Investor and his, her or its Qualified Intermediary in a manner necessary to complete the Section 1031 tax-deferred exchange.

7. Additional Information. The Investor hereby acknowledges and agrees that the Trust may make such further inquiry and the Investor shall be required to provide such additional information as the Trust may deem appropriate with regard to the suitability of the Investor or as may be necessary to permit the Trust to comply with any and all laws and ordinances to which the Trust is subject.

8. Authorization. The Investor releases to the Trust and those third party vendors retained to conduct credit and background evaluations in accordance with the questions contained in the Investor Questionnaire (as defined herein) (the "**Vendors**") any information regarding the Investor's employment status, bank account records, mortgage or other current or prior credit, collection accounts, rental history, state and federal tax liens, state and federal crimes, state and federal civil litigation and bankruptcy, and state and county UCC (Uniform Commercial Code) searches. As part of such authorization, the Investor hereby authorizes the Trust's release of such information to the Vendors. This information is for the confidential use of the Trust and the Vendors only.

9. Indemnification. The Investor agrees to indemnify and hold harmless the Trust, the Manager, Fortress and their respective officers, directors, employees, beneficiaries, trustees, and agents (the "**Indemnified Parties**") against any and all loss, liability, claim, damage and expense whatsoever (including reasonable attorneys' fees) arising out of or based upon any false representation or warranty or breach or failure by the Investor to comply with any covenant or agreement made by the Investor herein, or in any other document furnished by the Investor to any of the foregoing in connection with this transaction. This indemnification includes, but is not limited to, any damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) incurred by the Indemnified Parties in investigating, preparing or defending against any alleged violation of federal or state securities laws which is based upon or related to any untruth or inaccuracy of any of the representations, warranties or agreements contained herein or in any other documents the Investor has furnished to any of the foregoing in connection with this transaction.

10. Irrevocability; Binding Effect. The Investor hereby acknowledges and agrees that, except as provided under applicable state law and Section 3 of the Purchase Agreement, the purchase hereunder is irrevocable and may not be canceled, terminated or revoked and that this Purchase Agreement shall survive the death or disability of the Investor and shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, successors, legal representatives and assigns.

11. Modifications. Neither this Purchase Agreement nor any provision hereof shall be waived, modified, discharged or terminated except by an instrument in writing signed by the party against whom any such waiver, modification, discharge or termination is sought.

12. Notices. Any notice, demand or other communication that any party hereto may be required, or may elect, or give to any other party hereunder shall be sufficiently given if sent via email to ops@orchardsecurities.com, or to the Investor at the address set forth in the Investor Questionnaire and related supporting documentation to which this Purchase Agreement is attached (collectively, the "**Investor Questionnaire**") or such other address as the parties may agree; or (b) delivered personally at such address.

13. Counterparts; Signatures. This Purchase Agreement, the related Investor Questionnaire and supporting documents may be executed and delivered (including by facsimile transmission or portable document format (PDF)) in one or more

counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same Purchase Agreement, Investor Questionnaire or other document, as applicable.

14. Entire Agreement. This Purchase Agreement, together with the Investor Questionnaire, contains the entire agreement of the parties with respect to the subject matter hereof and there are no representations, covenants or other agreements except as stated or referred to herein or therein. The Investor acknowledges that it participated in, or had the meaningful opportunity to participate in, the negotiation and drafting of this Purchase Agreement. In the event an ambiguity or question of intent or interpretation arises, the Investor agrees that this Purchase Agreement shall be construed to be the product of meaningful negotiations between the Investor and the Trust, and no presumption or burden of proof shall arise favoring or disfavoring either one of them by virtue of the authorship of any of the provisions of this Purchase Agreement.

15. Power of Attorney. The Investor hereby irrevocably constitutes and appoints the Manager with full power of substitution, the true and lawful attorney-in-fact and agent of the Investor, to execute the Trust Agreement in its name. The power of attorney granted herein shall be deemed to be coupled with an interest, shall be irrevocable, shall survive and not be affected by the dissolution, bankruptcy or legal disability of the Investor, and shall extend to its successors and assigns. Any Person dealing with the Trust may conclusively presume and rely upon the fact that the Trust Agreement, executed by such attorney-in-fact and agent, is authorized, regular, and binding, without further inquiry.

16. Severability. Each provision of this Purchase Agreement is intended to be severable from every other provision, and the invalidity or illegality of any portion hereof shall not affect the validity or legality of the remainder hereof.

17. Assignability. This Purchase Agreement is not transferable or assignable by the Investor except to a qualified intermediary in the case of a Section 1031 tax-deferred exchange.

18. Applicable Law. This Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Delaware as applied to residents of that state executing contracts wholly to be performed in that state.

19. Choice of Jurisdiction. The Investor agrees that any action or proceeding arising, directly, indirectly, or otherwise, in connection with, out of, or from this Purchase Agreement, and breach thereof, or any transaction covered hereby shall be resolved, whether by arbitration or otherwise, within New York County, New York. The parties further agree that any such relief whatsoever in connection with this Purchase Agreement shall be commenced exclusively in the United States federal or state courts, or if possible before an arbitral body, located within New York County, New York.

20. Reimbursement. If any action or other proceeding, other than arbitration, is brought to enforce this Purchase Agreement or because of a dispute or alleged breach, default or misrepresentation in connection with any of the provisions of this Purchase Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in the action or proceeding in addition to any other relief to which they may be entitled.

21. Certificates of Non-Foreign Status. Under penalties of perjury, the Investor declares that, to the best of his or her knowledge and belief the following statements are true, correct and complete: (a) that the Investor is not a foreign person for purposes of U.S. income taxation (i.e., he or she is not a nonresident alien, nor executing this document as an officer of a foreign corporation, as a partner in a foreign partnership, or as a fiduciary of a foreign employee benefit plan, foreign trust or foreign estate); (b) that the following information contained elsewhere in the Purchase Agreement or the Investor Questionnaire is true, correct and complete: the U.S. taxpayer identification number (i.e., social security number), and the home address; and (c) that the Investor agrees to inform the Trust promptly if the Investor becomes a nonresident alien (in the case of an individual) or other foreign person (in case of an entity) during the three years immediately following the date hereof.

22. Certification regarding Securities Laws. By signing below, the Investor certifies that he or she has read and understands the following additional considerations: The Interests have not been approved or disapproved by the Securities and Exchange Commission, any state securities commission or other regulatory authority, nor have any of the foregoing authorities passed upon or endorsed the merits of this Offering or the accuracy or adequacy of the Private Placement Memorandum. Any representation to the contrary is unlawful. The Interests offered hereby are subject to investment risk, including the possible loss of principal.

23. Tax Matters.

(a) The Investor represents and warrants that: (i) the Investor is a U.S. Person (as defined herein) and (ii) the information contained in the Purchase Agreement and the Investor Questionnaire is true, correct, and complete (including, but not limited to, the Investor's U.S. taxpayer identification number and address). The Investor agrees to inform the Trust promptly if the Investor becomes a Non-U.S. Person or if there are any material changes to the information it provided to the Trust in the Purchase Agreement or the Investor Questionnaire. For the purposes of the Purchase Agreement, the term: (1) "U.S. Person" shall mean any person that is a "United States person" as defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended, and (2) "Non-U.S. Person" means a person who is not a U.S. Person. The Investor acknowledges that the Trust may rely on the foregoing representations for purposes of complying with applicable federal, state, and local tax withholding and reporting obligations.

(b) The Investor agrees to provide upon the reasonable request of the Trust or the Manager any and all information necessary to comply with laws and regulations applicable to the Trust. Further, the Investor will properly execute and provide to the Trust or the Manager in a timely manner any and all tax certificates, forms, or documentation that may be reasonably required in connection with the Trust's compliance with laws and regulations. In addition, the Investor agrees to update such information if and when any such information is no longer true or correct and to provide any additional information required pursuant to any change in law, or the application or interpretation thereof. The Investor acknowledges that, if required by applicable law (including federal, state, or local tax law), the Trust may withhold or cause to be withheld amounts from distributions or other amounts otherwise payable to the Investor and remit such amounts to the appropriate taxing authority. Any such withholding shall reduce the amounts otherwise distributable to the Investor. The Investor acknowledges that if it does not provide (or appropriately update) any such information with respect to the Trust, the Trust may be required to withhold taxes at a statutory or default rate, and the Investor may be required to indemnify the Trust for any losses the Trust incurs as a result.

(c) If the Investor constitutes a partnership, grantor trust or S-corporation for U.S. federal income tax purposes, then either (i) less than substantially all of the value of the Interest of each beneficial owner (direct or indirect) in the Investor is attributable to the Investor's Interest in the Trust within the meaning of Treasury Regulation Section 1.7704-1(h)(3)(i), or (ii) permitting the Trust to satisfy the 100-partner limitation under Treasury Regulation Section 1.7704-1(h)(1)(ii) is not a principal purpose of the Investor's beneficial owners' investing in the Trust through the Investor.

24. Anti-Money Laundering Matters. The Investor acknowledges that due to anti-terrorism and anti-money laundering regulations, the Trust, the Manager and/or any other Manager, officer, employee or agent acting on behalf of the Trust may require further documentation verifying the Investor's identity and the source of funds used to purchase Interests subscribed for hereby before this Purchase Agreement can be processed or accepted. To comply with applicable U.S. legislation and regulations, including but not limited to the International Anti-Money Laundering and Financial Anti-Terrorism Abatement Act of 2001 (Title III of the USA PATRIOT Act), the Investor agrees that all payments by the Investor to the Trust and all distributions to the Investor from the Trust will only be made in the Investor's name and to and from a bank account of a bank based or incorporated in or formed under the laws of the United States or a bank that is not a "foreign shell bank" within the meaning of the U.S. Bank Secrecy Act (31 U.S.C. § 5311 et seq.), as amended, and the regulations promulgated thereunder by the U.S. Department of the Treasury, as such regulations may be amended from time to time. The Investor further agrees to provide the Trust at any time prior to and during the term of the Trust with such information or certification as the Trust determines to be reasonably necessary or appropriate to verify compliance with the anti-terrorism and anti-money laundering regulations of any applicable jurisdiction or to respond to requests for information concerning the identity of the Investor or any person directly or indirectly controlling or owning Interests (excluding beneficiaries of the Investor) from any governmental authority, self-regulatory organization or financial institution in connection with the Trust's compliance procedures with respect to anti-terrorism and anti-money laundering regulations and to update such information as necessary. Such information may include, but not be limited to, the name, address, telephone number, date of birth, and Social Security or taxpayer identification number of any such individual person, or of the beneficial owners of any entity, if the Investor is an entity. Identity may be verified using a current valid passport or other current valid government-issued identification (e.g., a driver's license). If the Investor is an entity, the Investor has provided documentation to evidence the

authority of the Investor to make this subscription. The Investor agrees that, in the event of a material change with respect to the information provided in connection with the purchase of Interests, the Investor will provide the Trust promptly with the updated information affected by the material change. The Investor acknowledges that the Trust intends to maintain records of information used for verification of identity. The Investor certifies that (i) the information set forth on the Signature Page attached to this Purchase Agreement and (ii) any other information provided to the Trust by the Investor concerning the identity of the Investor is true and correct. In addition, the Investor certifies that neither the Investor nor any person directly or indirectly controlling or owning any interests in the Investor or affiliated with any such person, entity or organization is in violation of or non-compliant with (i) any other requirements contained in the rules and regulations or lists relating to anti-terrorism or anti-money laundering maintained by the United States Treasury Department's Office of Foreign Asset Control ("**OFAC**") (including any "blocked" person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other person or entity named on OFAC's Specially Designated Nationals List), or (ii) any other U.S. statute, Executive Order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action.

[Signatures on the Following Pages]

SIGNATURE PAGE TO PURCHASE AGREEMENT

The Investor hereby represents, warrants and agrees, by signing below: (i) that the information provided in this Purchase Agreement, including the Investor Questionnaire to which the Purchase Agreement is attached, is true, correct, and complete as of the date set forth below and (ii) that this information may be relied upon by the Trust, the Manager, Fortress and their respective Affiliates. The Investor agrees to promptly notify the Manager should there be any change in any of the foregoing information or if it otherwise ceases to be true.

IN WITNESS WHEREOF, the undersigned has executed this Purchase Agreement on the date set forth below.

Date (required): _____

If a natural person:

OWNER #1:

Signature: _____

Print Name: _____

OWNER #2:

Signature: _____

Print Name: _____

If not a natural person:

Name of Trust/Entity: _____

Signature of Authorized Signatory #1: _____

Print Name and Title: _____

Signature of Authorized Signatory #2: _____

Print Name and Title: _____

Signature of Authorized Signatory #3: _____

Print Name and Title: _____

Signature of Authorized Signatory #4: _____

Print Name and Title: _____

ACCEPTANCE OF SUBSCRIPTION

The Manager, on behalf of the Trust, hereby accepts the above application for subscription for Interests and the Investor is admitted to the Trust as a Class 1 Beneficial Owner as of the date set forth below.

TRUST:

FREX DB SERIES I DST, a Delaware statutory trust

By: FREX Manager Series I LLC, a Delaware limited liability company, its Manager and Signatory Trustee

By: _____

Name: _____

Title: _____

EXHIBIT A TO PURCHASE AGREEMENT
LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN GRANVILLE CORPORATION, COUNTY OF MONONGALIA, STATE OF WEST VIRGINIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 8, OF THE UNIVERSITY TOWN CENTRE DEVELOPMENT, A MAP OR PLAT OF SAID DEVELOPMENT, BEING OF RECORD IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, IN PLAT CABINET 3, ENVELOPE 100-B, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1308/PG 21), TAX MAP 8, PARCEL 1.11; THENCE WITH SAID TRACT 8, NORTH 36°23'54" WEST 452.83 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 38°11'46" WEST 66.37 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET) IN THE SOUTHERN LINE AND AT THE END OF MOUNTAINEER DRIVE, STANDING AS A CORNER TO SAID TRACT 8; THENCE LEAVING SAID TRACT 8 AND WITH THE END OF SAID MOUNTAINEER DRIVE FOR A PARTIAL LINE AND CONTINUING WITH TRACT 9 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 468), TAX MAP 8, PARCEL 1.12, NORTH 38°11'46" WEST 176.05 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 67°32'28" WEST 52.51 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER MON-VIEW DEVELOPMENT (DB 1254/PG 452), TAX MAP 8, PARCEL 1 AND SAID TRACT 9; THENCE LEAVING SAID TRACT 9 AND WITH SAID MON-VIEW DEVELOPMENT, NORTH 46°32'47" WEST 571.68 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°09'33" WEST 52.59 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING IN THE LINE OF OTHER LANDS OF SAID MON-VIEW DEVELOPMENT, LLC (DB 1306/PG 176), TAX MAP 8, PART OF PARCEL 1 AND AS A CORNER TO NOW OR FORMER TOWN OF GRANVILLE (DB 1302/PG 517), TAX MAP 8, PARCEL 1.2; THENCE LEAVING SAID MON-VIEW DEVELOPMENT AND WITH SAID TOWN OF GRANVILLE, NORTH 53°31'50" EAST 38.07 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 17°30'21" EAST 169.96 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 08°56'15" WEST 112.73 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO NOW OR FORMER BOJAN, LLC (DB 1177/PG 232), TAX MAP 15, PART OF PARCEL 18 AND SAID TOWN OF GRANVILLE; THENCE LEAVING SAID TOWN OF GRANVILLE AND WITH SAID BOJAN NORTH 79°25'10" EAST 429.46 FEET TO A 5/8-INCH CAPPED IRON ROD (FOUND), STANDING AS A CORNER TO NOW OR FORMER STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL II, (DB 434/PG 1), TAX MAP 15, PARCEL 20; THENCE LEAVING SAID BOJAN AND WITH SAID STATE ROAD COMMISSION NORTH 79°51'27" EAST 962.61 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 21°47'47" EAST 270.90 FEET TO A POINT, STANDING AS A CORNER TO LOT 26 OF HACKNEY ADDITION TO RANDALL, NOW OR FORMERLY OWNED BY SAID STATE ROAD COMMISSION OF WEST VIRGINIA, PARCEL I, (DB 434/PG 1), TAX MAP 15B, PARCEL 83; THENCE WITH LOTS OF SAID HACKNEY ADDITION (STATE ROAD COMMISSION) SOUTH 82°06'32" EAST 491.91 FEET TO A POINT, STANDING AS A CORNER TO LOTS 23 AND 22 OF HACKNEY ADDITION; THENCE WITH SAID LOTS 23 AND 22 NORTH 07°55'19" EAST 381.28 FEET TO A POINT IN THE SOUTHERN RIGHT OF WAY LINE OF US ROUTE 19 AND WEST VIRGINIA ROUTE 7, STANDING AS A CORNER TO SAID STATE ROAD COMMISSION; THENCE LEAVING SAID STATE ROAD COMMISSION AND WITH RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND LOT 22 OF SAID HACKNEY ADDITION SOUTH 74°20'40" EAST 162.38 FEET TO A POINT IN THE WESTERN LINE OF THE NORFOLK AND SOUTHERN RAILROAD (FORMERLY THE MONONGAHELA RAILROAD COMPANY), 60 FEET RIGHT OF AND RIGHT ANGLE TO CENTERLINE OF SAID NORFOLK AND SOUTHERN RAILROAD; THENCE LEAVING RIGHT OF WAY LINE OF SAID US ROUTE 19 AND WEST VIRGINIA ROUTE 7 AND WITH SAID NORFOLK AND SOUTHERN RAILROAD, A LINE 60 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 599.78 FEET TO A POINT; THENCE SOUTH 86°33'10" EAST 25.00 FEET TO A POINT 35 FEET FROM CENTERLINE; THENCE WITH A LINE 35 FEET FROM AND PARALLEL TO SAID CENTERLINE SOUTH 03°26'50" WEST 565.00 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4442.46 FEET, A LINE 35 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 839.1 FEET ALONG SAID CURVE THROUGH AN ANGLE OF 10°49'49" TO A POINT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 01°58'05" EAST 838.48 FEET; THENCE SOUTH 71°39'50" WEST 15.28 FEET

TO A POINT 50 FEET FROM SAID CENTERLINE; THENCE WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 4457.46 FEET, A LINE 50 FEET FROM AND CONCENTRIC TO CENTERLINE SOUTHERLY 437.99 FEET TO A POINT, STANDING AS A CORNER TO NOW OR FORMER CONSOLIDATION COAL COMPANY (DB 653/PG 403), TAX MAP 9, PARCEL 2, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 10°14'08" EAST 437.83 FEET; THENCE LEAVING SAID NORFOLK AND SOUTHERN RAILROAD AND WITH SAID CONSOLIDATION COAL COMPANY SOUTH 85°25'00" WEST 184.03 FEET TO A POINT; THENCE SOUTH 02°42'13" WEST 585.63 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°21'02" WEST 198.97 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 54°45'19" WEST 640.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE SOUTH 69°54'18" WEST 327.39 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 5 OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY TARGET CORPORATION (DB 1254/PG 546), TAX MAP 8, PARCEL 1.5 AND SAID CONSOLIDATION COAL COMPANY; THENCE LEAVING SAID CONSOLIDATION COAL COMPANY AND WITH SAID TRACT 5 NORTH 17°25'35" WEST 68.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 47°01'17" WEST 138.35 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 62°12'34" WEST 113.66 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO TRACT 6, OF SAID UNIVERSITY TOWN CENTRE, NOW OR FORMERLY OWNED BY MOUNTAINEER PROPERTY CO., LLC (DB 1254/PG 676), TAX MAP 8, PARCEL 1.7 AND SAID TRACT 5; THENCE LEAVING SAID TRACT 5 AND WITH SAID TRACT 6 NORTH 62°12'34" WEST 280.90 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 64°12'16" WEST 36.47 FEET TO A POINT; THENCE NORTH 12°33'18" WEST 89.60 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 24°32'26" WEST 83.15 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 33°30'03" WEST 60.70 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET), STANDING AS A CORNER TO SAID TRACT 8 OF SAID UNIVERSITY TOWN CENTRE AND SAID TRACT 6; THENCE LEAVING SAID TRACT 6 AND WITH SAID TRACT 8 NORTH 68°57'41" EAST 143.76 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 40°29'27" EAST 163.82 FEET TO A 5/8-INCH BY 30-INCH CAPPED IRON ROD (SET); THENCE NORTH 69°12'18" EAST 246.34 FEET TO THE PLACE OF BEGINNING, CONTAINING 93.61 ACRES, MORE OR LESS, AS SURVEYED IN JUNE THROUGH AUGUST, 2007, AND UPDATED OCTOBER, 2012, BY TRIAD ENGINEERING, INC., OF MORGANTOWN, WEST VIRGINIA, AND SHOWN ON SHEET C-2 OF THIS ALTA/ACSM LAND TITLE SURVEY FOR FAIRFIELD GRANVILLE EXCHANGE, LLC. THE MERIDIAN FOR ALL BEARINGS IN THIS DESCRIPTION IS BASED ON MON - VIEW DEVELOPMENT "PROJECT NORTH".

PARCEL 2: [EASEMENT]

TOGETHER WITH A NON-EXCLUSIVE RIGHT TO TIE ONTO OR CONNECT TO THE STORM WATER DRAINAGE SYSTEM, EXISTING AS OF JUNE 5, 2003, AND LOCATED WITHIN THE LANDS ACQUIRED BY BOJAN, LLC BY DEED DATED OCTOBER 15, 1998 AND RECORDED IN THE CLERK'S OFFICE OF MONONGALIA COUNTY, WEST VIRGINIA, IN DEED BOOK 1177, PAGE 232, TOGETHER WITH THE RIGHT TO DISCHARGE INTO SAID STORM WATER SYSTEM, AS MORE PARTICULARLY SET FORTH WITHIN THAT CERTAIN DEED DATED JUNE 5, 2003, BY AND BETWEEN BOJAN, LLC AND MON-VIEW, LLC, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1254, PAGE 445, AND AS REAFFIRMED WITHIN THAT CERTAIN INTERPARTIES AGREEMENT DATED JUNE 5, 2003 AND RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 1254, PAGE 496.

PARCEL 3: [EASEMENT]

TOGETHER WITH AN EASEMENT FOR THE PURPOSES OF (I) DESIGNING, CONSTRUCTING, OPERATING AND MAINTAINING A DRAINAGE CHANNEL FOR THE CONVEYANCE OF SURFACE WATER AND STORM WATER RUNOFF FROM PARCEL 1 ACROSS ADJACENT LAND TO A COLLECTION AND TREATMENT POND AND (II) THE DISCHARGE OF SURFACE WATER AND STORM WATER INTO SAID TREATMENT POND, AS MORE PARTICULARLY DESCRIBED WITHIN THAT CERTAIN DRAINAGE EASEMENT DATED MAY 1, 2008, BY AND BETWEEN MON-VIEW, LLC AND FAIRFIELD GRANVILLE EXCHANGE, RECORDED IN THE AFORESAID CLERK'S OFFICE, IN DEED BOOK 1366, PAGE 125. BEING THE SAME REAL ESTATE CONVEYED TO CPI-GREP DOMAIN OWNER, L.L.C. FROM DTC BORROWER, LLC BY DEED DATED JULY 2, 2018, OF RECORD IN DEED BOOK 1636, AT PAGE 48.

NOTE: THE ABOVE APPURTENANT PARCEL 2: [EASEMENT] AND PARCEL 3: [EASEMENT] ARE CONTIGUOUS TO PARCEL 1.

CONSENT OF SPOUSE

(FOR INDIVIDUAL PURCHASERS IN COMMUNITY PROPERTY STATES, WHICH ARE CURRENTLY ALASKA, ARIZONA, CALIFORNIA, IDAHO, LOUISIANA, NEVADA, NEW MEXICO, TEXAS, WASHINGTON AND WISCONSIN)

I,_____ [print name], spouse of _____ [print name], have read and hereby approve of the Investor Questionnaire and Purchase Agreement for FREX DB Series I DST (the "**Purchase Agreement**"), which my spouse has signed. I hereby appoint my spouse as my attorney-in-fact with respect to the exercise of any rights related to a purchase of any such Interests and agree to be bound by the provisions of the Purchase Agreement and any other documents related to the purchase of any such Interests (collectively, the "**Purchase Documents**") insofar as I may have any rights in said Purchase Documents or any property or interest subject thereto under the community property laws of the State of _____ or similar laws relating to marital property in effect in the state of our residence as of the date of signing of the Purchase Agreement and/or the Purchase Documents.

Signature:_____ Date:_____

Print Name:_____

Form **W-9**
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See *Specific Instructions* on page 3.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) . . . . . _____

Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____

(Applies to accounts maintained outside the United States.)

3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions . . . . . ☐

5 Address (number, street, and apt. or suite no.). See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

		–							

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** | **Date**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

Form **W-8BEN**

(Rev. October 2021)

Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)

▶ For use by individuals. Entities must use Form W-8BEN-E.
▶ Go to *www.irs.gov/FormW8BEN* for instructions and the latest information.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do NOT use this form if:	Instead, use Form:
• You are NOT an individual	W-8BEN-E
• You are a U.S. citizen or other U.S. person, including a resident alien individual	W-9
• You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the United States (other than personal services)	W-8ECI
• You are a beneficial owner who is receiving compensation for personal services performed in the United States	8233 or W-4
• You are a person acting as an intermediary	W-8IMY

Note: If you are resident in a FATCA partner jurisdiction (that is, a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to your jurisdiction of residence.

Part I Identification of Beneficial Owner (see instructions)

1 Name of individual who is the beneficial owner

2 Country of citizenship

3 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address.**

City or town, state or province. Include postal code where appropriate.

Country

4 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country

5 U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)

6a Foreign tax identifying number (see instructions)

6b Check if FTIN not legally required ☐

7 Reference number(s) (see instructions)

8 Date of birth (MM-DD-YYYY) (see instructions)

Part II Claim of Tax Treaty Benefits (for chapter 3 purposes only) (see instructions)

9 I certify that the beneficial owner is a resident of _____ within the meaning of the income tax treaty between the United States and that country.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article and paragraph _____ of the treaty identified on line 9 above to claim a ____ % rate of withholding on (specify type of income):

_____.

Explain the additional conditions in the Article and paragraph the beneficial owner meets to be eligible for the rate of withholding: _____

Part III Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income or proceeds to which this form relates or am using this form to document myself for chapter 4 purposes;
- The person named on line 1 of this form is not a U.S. person;
- This form relates to:
  - (a) income not effectively connected with the conduct of a trade or business in the United States;
  - (b) income effectively connected with the conduct of a trade or business in the United States but is not subject to tax under an applicable income tax treaty;
  - (c) the partner's share of a partnership's effectively connected taxable income; or
  - (d) the partner's amount realized from the transfer of a partnership interest subject to withholding under section 1446(f);
- The person named on line 1 of this form is a resident of the treaty country listed on line 9 of the form (if any) within the meaning of the income tax treaty between the United States and that country; and
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner. I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.

Sign Here ▶ ☐ I certify that I have the capacity to sign for the person identified on line 1 of this form.

_____ _____
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY)

_____
Print name of signer

APPENDIX I – FINANCIAL FORECAST

The following Financial Forecast is intended to supplement the disclosures contained in this Memorandum.

Financial Highlights
FREX DB Series I, DST

OFFERING SUMMARY

Offering Price		
Annualized First Year Proforma Net Operating Income		$4,438,106
Capitalization Rate		6.02%
Offering Price		**$75,983,939**
Offering Proceeds	52.88%	$40,178,939
Loan Proceeds	47.12%	$35,805,000

Financing Terms	
Mortgage Principal	$35,805,000
Interest Rate	6.10%
Annual Interest Only Payment	$2,213,714
Amortization	Full Term I/O
Maturity Date	2036

Forecasted Y1 Return	
Additional Rent	$2,175,853
Asset Management Fee*	($85,439)
Trustee Fees	($80,000)
Cash from Additional Rent	**$2,010,414**
Supplemental Rent	$0
Property Reserve Contribution	$0
Net Cash Flow	**$2,010,414**
Annualized Cash on Cash Return	**5.00%**

ESTIMATED USE OF PROCEEDS

Sources	
Offering Proceeds	$40,178,939
Loan Proceeds	$35,805,000
Total Sources	**$75,983,939**

Application		**% of Offering Proceeds**	**% of Total Proceeds**
Selling Commissions and Fees			
Selling Commission	$2,410,736	6.00%	3.17%
Dealer Manager Fee	$803,579	2.00%	1.06%
Wholesaling Fee	$401,789	1.00%	0.53%
Organization & Offering Expenses	$200,895	0.50%	0.26%
Marketing & Due Diligence Reallowance	$401,789	1.00%	0.53%
Total	$4,218,789	10.50%	5.55%
Costs of Acquisition			
Total Acquisition Cost	$68,484,744		90.13%
Acquisition Fee	$976,500		1.29%
Lender Reserve	$2,003,906		2.64%
Initial Trust Reserves	$300,000		0.39%
Total	$71,765,150		94.45%
Total Application	**$75,983,939**		100.0%

Total Acquisition Cost	
Real Estate Acquisition Price	$65,100,000
Acquisition Closing Costs	
Total Closing Costs	$479,555
Carry Cost	$1,302,000
DST Working Capital	$832,800
Total Acquisition Closing Costs	$2,614,355
Lender Closing & Transfer Costs	$770,389
Total Lender Closing Costs	$770,389
Total Acquisition Cost	$68,484,744

Forecasted Statement of Cash Flows
FREX DB Series I, DST

Forecasted Cash on Cash Return

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Effective Gross Income	*8,543,853*	*8,942,337*	*9,196,742*	*9,449,652*	*9,709,518*	*9,976,529*	*10,250,884*	*10,532,783*	*10,822,435*	*11,120,052*
Operating Expenses	*(4,105,747)*	*(4,214,547)*	*(4,317,464)*	*(4,422,951)*	*(4,531,341)*	*(4,642,712)*	*(4,757,148)*	*(4,874,732)*	*(4,995,551)*	*(5,119,693)*
Net Operating Income	4,438,106	4,727,790	4,879,278	5,026,701	5,178,177	5,333,817	5,493,736	5,658,051	5,826,884	6,000,358
Master Lease Rent										
Base Rent - Debt Service	*2,213,714*	*2,219,779*	*2,213,714*	*2,213,714*	*2,213,714*	*2,219,779*	*2,213,714*	*2,213,714*	*2,213,714*	*2,219,779*
Base Rent - Real Estate Taxes & Insurance	*715,760*	*726,530*	*733,588*	*740,842*	*748,297*	*755,958*	*763,830*	*771,921*	*780,235*	*788,780*
Total Base Rent	*2,929,474*	*2,946,309*	*2,947,302*	*2,954,556*	*2,962,010*	*2,975,736*	*2,977,544*	*2,985,635*	*2,993,949*	*3,008,558*
Master Tenant Base Income 1	48,540	112,674	137,822	140,335	139,946	136,509	137,138	139,554	138,736	141,528
Additional Rent										
Additional Rent Breakpoint	*6,368,000*	*6,547,000*	*6,669,000*	*6,777,000*	*6,885,000*	*6,999,000*	*7,108,000*	*7,228,000*	*7,348,000*	*7,481,000*
Additional Rent Max	*2,176,000*	*2,160,000*	*2,130,000*	*2,274,000*	*2,425,000*	*2,575,000*	*2,737,000*	*2,900,000*	*3,075,000*	*3,070,000*
Additional Rent	2,175,853	2,160,000	2,130,000	2,274,000	2,425,000	2,575,000	2,737,000	2,900,000	3,075,000	3,070,000
Asset Management Fee	(85,439)	(89,423)	(91,967)	(94,497)	(97,095)	(99,765)	(102,509)	(105,328)	(108,224)	(111,201)
Trustee Fee & DST Expenses	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)
Additional Rent Cash Flow	**2,010,414**	**1,990,577**	**1,958,033**	**2,099,503**	**2,247,905**	**2,395,235**	**2,554,491**	**2,714,672**	**2,886,776**	**2,878,799**
Supplemental Rent										
Supplemental Rent Breakpoint	*8,544,000*	*8,707,000*	*8,799,000*	*9,051,000*	*9,310,000*	*9,574,000*	*9,845,000*	*10,128,000*	*10,423,000*	*10,551,000*
Master Tenant Supplemental Rent Income	-	23,534	39,774	39,865	39,952	40,253	40,588	40,478	39,943	56,905
DST Supplemental Rent	-	211,804	357,968	358,787	359,566	362,276	365,295	364,305	359,491	512,146
Trust Reserve Account	-	-	-	(251,335)	(258,909)	(266,691)	(274,687)	(282,903)	(291,344)	(300,018)
Supplemental Rent Cash Flow	**-**	**211,804**	**357,968**	**107,452**	**100,657**	**95,585**	**90,609**	**81,402**	**68,147**	**212,129**
Total DST Income	**5,105,327**	**5,318,112**	**5,435,270**	**5,587,343**	**5,746,576**	**5,913,013**	**6,079,840**	**6,249,939**	**6,428,440**	**6,590,705**
Debt Service	(2,213,714)	(2,219,779)	(2,213,714)	(2,213,714)	(2,213,714)	(2,219,779)	(2,213,714)	(2,213,714)	(2,213,714)	(2,219,779)
Real Estate Taxes & Insurance 2	(715,760)	(726,530)	(733,588)	(740,842)	(748,297)	(755,958)	(763,830)	(771,921)	(780,235)	(788,780)
Asset Management Fee	(85,439)	(89,423)	(91,967)	(94,497)	(97,095)	(99,765)	(102,509)	(105,328)	(108,224)	(111,201)
Trustee Fee & DST Expenses	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)	(80,000)
Trust Reserve	-	-	-	(251,335)	(258,909)	(266,691)	(274,687)	(282,903)	(291,344)	(300,018)
Total DST Cash Flow	**2,010,414**	**2,202,380**	**2,316,000**	**2,206,955**	**2,348,562**	**2,490,820**	**2,645,100**	**2,796,074**	**2,954,923**	**3,090,928**

Total Master Tenant Rental Income	**8,543,853**	**8,942,337**	**9,196,742**	**9,449,652**	**9,709,518**	**9,976,529**	**10,250,884**	**10,532,783**	**10,822,435**	**11,120,052**
Total Master Tenant Property Expenses 2	(4,105,747)	(4,214,547)	(4,317,464)	(4,422,951)	(4,531,341)	(4,642,712)	(4,757,148)	(4,874,732)	(4,995,551)	(5,119,693)
Base Rent 2	(2,929,474)	(2,946,309)	(2,947,302)	(2,954,556)	(2,962,010)	(2,975,736)	(2,977,544)	(2,985,635)	(2,993,949)	(3,008,558)
Add Back Real Estate Taxes & Insurance 2	715,760	726,530	733,588	740,842	748,297	755,958	763,830	771,921	780,235	788,780
Additional Rent	(2,175,853)	(2,160,000)	(2,130,000)	(2,274,000)	(2,425,000)	(2,575,000)	(2,737,000)	(2,900,000)	(3,075,000)	(3,070,000)
Supplemental Rent	-	(211,804)	(357,968)	(358,787)	(359,566)	(362,276)	(365,295)	(364,305)	(359,491)	(512,146)
Total Master Tenant Income	**48,540**	**136,208**	**177,597**	**180,200**	**179,897**	**176,762**	**177,727**	**180,033**	**178,679**	**198,433**
Total DST Cash Flow	**2,010,414**	**2,202,380**	**2,316,000**	**2,206,955**	**2,348,562**	**2,490,820**	**2,645,100**	**2,796,074**	**2,954,923**	**3,090,928**
DST CoC	*5.00%*	*5.48%*	*5.76%*	*5.49%*	*5.85%*	*6.20%*	*6.58%*	*6.96%*	*7.35%*	*7.69%*
Total Master Tenant Income	48,540	136,208	177,597	180,200	179,897	176,762	177,727	180,033	178,679	198,433
Master Tenant VIG	*0.12%*	*0.34%*	*0.44%*	*0.45%*	*0.45%*	*0.44%*	*0.44%*	*0.45%*	*0.44%*	*0.49%*
Master Tenant Income % of EGI	*0.57%*	*1.52%*	*1.93%*	*1.91%*	*1.85%*	*1.77%*	*1.73%*	*1.71%*	*1.65%*	*1.78%*
Forecasted Lender Reserve Account										
Beginning Balance	2,003,906	1,808,231	1,685,206	1,514,439	1,391,414	1,149,389	1,009,364	762,239	474,122	226,997
Reserve Contribution	-	-	-	-	-	-	-	-	-	-
Reserve Use	(195,675)	(123,025)	(170,767)	(123,025)	(242,025)	(140,025)	(247,125)	(288,117)	(247,125)	(158,425)
Ending Balance	**1,808,231**	**1,685,206**	**1,514,439**	**1,391,414**	**1,149,389**	**1,009,364**	**762,239**	**474,122**	**226,997**	**68,572**
Forecasted Trust Reserve Account										
Beginning Balance	300,000	300,000	300,000	300,000	551,335	810,244	1,076,935	1,351,622	1,634,524	1,925,868
Reserve Contribution	-	-	-	251,335	258,909	266,691	274,687	282,903	291,344	300,018
Seller Credit	-	-	-	-	-	-	-	-	-	-
Capital Expenditures	-	-	-	-	-	-	-	-	-	-
Ending Balance	**300,000**	**300,000**	**300,000**	**551,335**	**810,244**	**1,076,935**	**1,351,622**	**1,634,524**	**1,925,868**	**2,225,886**

1 The difference between the Base Rent and the Additional Rent Breakpoint for the Property for a given month, if any, after taking into account any expenses of the Property, will inure to the benefit of the Master Tenant. Such amounts will not be available for distributions to the Trust or the Investors.

2 Pursuant to the Master Lease, real estate taxes and insurance (**T&I**) are the Master Tenant's economic responsibility, but the DST pays for administrative convenience. Master Tenant T&I reimbursements was part of Base Rent, thus removed to reconcile DST cash flow. Further, Master Tenant Property Expenses includes T&I (and part of Base Rent), thus added back to reconcile total Master Tenant income (i.e., otherwise it is counted twice in Base Rent and Master Tenant Property Expenses).

Net Operating Income
FREX DB Series I, DST

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Market Rental Income	**$8,542,992**	**$8,774,419**	**$9,015,716**	**$9,263,648**	**$9,518,398**	**$9,780,154**	**$10,049,108**	**$10,325,459**	**$10,609,409**	**$10,901,168**
Vacancy Loss	($541,064)	($508,916)	($522,912)	($537,292)	($552,067)	($567,249)	($582,848)	($598,877)	($615,346)	($632,268)
Concessions	($219,460)	($127,005)	($130,498)	($134,087)	($137,774)	($141,563)	($145,456)	($149,456)	($153,566)	($157,789)
Employee/Model Beds	($75,634)	($78,970)	($81,141)	($83,373)	($85,666)	($88,021)	($90,442)	($92,929)	($95,485)	($98,111)
Credit Loss	($69,425)	($48,560)	($41,406)	($42,544)	($43,714)	($44,917)	($46,152)	($47,421)	($48,725)	($50,065)
Total Rental Income	**$7,637,410**	**$8,010,968**	**$8,239,759**	**$8,466,353**	**$8,699,177**	**$8,938,405**	**$9,184,211**	**$9,436,777**	**$9,696,288**	**$9,962,936**
Utility Income	$612,908	$629,763	$647,081	$664,876	$683,160	$701,947	$721,251	$741,085	$761,465	$782,405
Parking Income	$47,307	$48,608	$49,945	$51,318	$52,729	$54,179	$55,669	$57,200	$58,773	$60,389
Miscellaneous Income	$246,228	$252,999	$259,957	$267,106	$274,451	$281,998	$289,753	$297,722	$305,909	$314,321
Total Other Income	**$906,443**	**$931,370**	**$956,983**	**$983,300**	**$1,010,340**	**$1,038,125**	**$1,066,673**	**$1,096,007**	**$1,126,147**	**$1,157,116**
Effective Gross Income	**$8,543,853**	**$8,942,337**	**$9,196,742**	**$9,449,652**	**$9,709,518**	**$9,976,529**	**$10,250,884**	**$10,532,783**	**$10,822,435**	**$11,120,052**
Salaries	$930,441	$955,999	$982,195	$1,009,109	$1,036,764	$1,065,179	$1,094,375	$1,124,375	$1,155,199	$1,186,871
Repairs and Maintenance	$111,254	$114,310	$117,442	$120,660	$123,967	$127,364	$130,855	$134,442	$138,128	$141,915
Turnover	$182,627	$187,644	$192,785	$198,068	$203,496	$209,074	$214,804	$220,693	$226,743	$232,960
Contract Services	$249,570	$256,425	$263,451	$270,671	$278,088	$285,710	$293,541	$301,588	$309,856	$318,351
Internet	$68,806	$70,696	$72,634	$74,624	$76,669	$78,770	$80,929	$83,148	$85,427	$87,770
Marketing and Leasing	$222,133	$228,234	$234,488	$240,914	$247,516	$254,300	$261,270	$268,432	$275,791	$283,352
General and Administrative	$353,913	$363,634	$373,598	$383,836	$394,355	$405,163	$416,269	$427,680	$439,404	$451,451
Real Estate Taxes	$464,305	$468,160	$468,113	$468,066	$468,020	$467,973	$467,926	$467,879	$467,832	$467,786
Insurance	$251,455	$258,370	$265,475	$272,776	$280,277	$287,985	$295,904	$304,042	$312,403	$320,994
Business Tax	$107,145	$110,088	$113,104	$116,203	$119,388	$122,660	$126,022	$129,477	$133,026	$136,674
Total Controllable Expenses	**$2,941,648**	**$3,013,559**	**$3,083,286**	**$3,154,927**	**$3,228,539**	**$3,304,177**	**$3,381,897**	**$3,461,755**	**$3,543,810**	**$3,628,124**
Management Fee	$256,316	$268,270	$275,902	$283,490	$291,286	$299,296	$307,527	$315,983	$324,673	$333,602
Utilities	$907,783	$932,718	$958,276	$984,535	$1,011,516	$1,039,239	$1,067,725	$1,096,993	$1,127,067	$1,157,968
Total Uncontrollable Expenses	**$1,164,098**	**$1,200,988**	**$1,234,178**	**$1,268,024**	**$1,302,801**	**$1,338,535**	**$1,375,251**	**$1,412,977**	**$1,451,740**	**$1,491,570**
Total Expenses	**$4,105,747**	**$4,214,547**	**$4,317,464**	**$4,422,951**	**$4,531,341**	**$4,642,712**	**$4,757,148**	**$4,874,732**	**$4,995,551**	**$5,119,693**
Net Operating Income	**$4,438,106**	**$4,727,790**	**$4,879,278**	**$5,026,701**	**$5,178,177**	**$5,333,817**	**$5,493,736**	**$5,658,051**	**$5,826,884**	**$6,000,358**