

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

FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934

June 6, 2024  
Date of Report (date of earliest event reported)



**NewLake Capital Partners, Inc.**  
(Exact name of registrant as specified in its charter)

Maryland  
(State or other jurisdiction of  
incorporation or organization)

000-56327  
(Commission File Number)

83-4400045  
(I.R.S. Employer Identification Number)

50 Locust Avenue, First Floor  
New Canaan, CT 06840  
(Address of principal executive offices and zip code)  
(203) 594-1402  
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
N/A	N/A	N/A

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 Exchange Act. Emerging growth company (§240.12b-2 of this chapter).

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

**Item 1.01 - Entry into a Material Definitive Agreement.**

On June 10, 2024, NewLake Capital Partners, Inc., a Maryland corporation (the “Company”), entered into an Equity Distribution Agreement (the “Agreement”) by and among (i) the Company, (ii) NLCP Operating Partnership LP, a Delaware limited partnership (the “Operating Partnership”) and (iii) Compass Point Research & Trading, LLC (the “Sales Agent”). Under the terms of the Agreement, the Company may offer and sell shares of its common stock, par value \$0.01 per share (“Common Stock”), having an aggregate offering price of up to \$50,000,000 (the “Shares”) from time to time through the Sales Agent.

Pursuant to the Agreement, the Shares may be offered and sold through the Sales Agent in transactions deemed to be “at-the-market” offerings as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended (the “Securities Act”). Under the Agreement, the Sales Agent (at the Company’s election) will use commercially reasonable efforts consistent with its normal sales and trading practices to sell the Shares as directed by the Company. Under the Agreement, the Company will pay the Sales Agent a commission that will be 2% of the gross sales price per share of Shares sold through it. The Agreement contains customary representations, warranties and agreements of the Company and customary conditions to completing future sale transactions, indemnification rights and obligations of the parties and termination provisions.

Shares sold under the Agreement, if any, will be issued pursuant to the Company’s registration statement on Form S-3 (No. 333-267894), and a related prospectus, filed with the Securities and Exchange Commission on October 14, 2022, as supplemented by the prospectus supplement, filed with the SEC on June 10, 2024, as the same may be amended or supplemented, under the Securities Act.

A copy of the Agreement is attached hereto as Exhibit 1.1 and is incorporated herein by reference. The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the Agreement. In connection with the registration of the Shares under the Securities Act, the legal opinion of Venable LLP relating to the legality of the issuance and sale of the Shares is attached as Exhibit 5.1 to this Current Report on Form 8-K.

**Item 5.07 - Submission of Matter to a Vote of Security Holders.**

On June 6, 2024, the Company held its Annual Meeting of Stockholders (“Annual Meeting”). At the Annual Meeting, stockholders elected seven directors to serve on the Company’s Board of Directors until the 2025 Annual Meeting of Stockholders and ratified the appointment of BDO USA, P.C. as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2024. The total number of shares of common stock entitled to vote at the Annual Meeting was 20,509,883, of which 14,969,139 shares, or 73.0%, were present in person or by proxy. The final voting results for each matter submitted to a stockholder vote at the Annual Meeting are set forth below.

Item 1: The following seven persons were elected to the Company’s Board of Directors:

<b>Nominee</b>	<b>For</b>	<b>Against</b>	<b>Abstentions</b>	<b>Broker Non-Votes</b>
Gordon DuGan	10,797,751	24,632	13,755	4,133,001
Alan Carr	10,802,165	16,656	17,317	4,133,001
Anthony Coniglio	10,805,922	15,878	14,338	4,133,001
Joyce Johnson	10,795,049	27,627	13,462	4,133,001
Peter Kadens	10,796,116	24,723	15,299	4,133,001
Peter Martay	10,805,815	15,819	14,504	4,133,001
David Weinstein	10,795,043	21,648	19,447	4,133,001

Item 2: Stockholders ratified the appointment of BDO USA, P.C. as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2024, by the votes set forth in the table below:

<b>For</b>	<b>Against</b>	<b>Abstentions</b>
14,815,331	97,069	56,739

**Item 9.01 - Financial Statements and Exhibits**

<u>Exhibit No.</u>	<u>Description</u>
1.1	<a href="#">Equity Distribution Agreement, dated June 10, 2024, by and among the Company, NLCP Operating Partnership LP and Compass Point Research &amp; Trading, LLC.</a>
5.1	<a href="#">Opinion of Venable LLP regarding the legality of the Shares.</a>
23.1	<a href="#">Consent of Venable LLP (included in Exhibit 5.1 hereto).</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

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**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized on this 10th day of June, 2024.

**NewLake Capital Partners, Inc.**

By: /s/ Lisa Meyer  
Name: Lisa Meyer  
Title: Chief Financial Officer, Treasurer and Secretary

NEWLAKE CAPITAL PARTNERS, INC.

UP TO \$50,000,000 OF COMMON STOCK  
(par value \$0.01 per share)

EQUITY DISTRIBUTION AGREEMENT

June 10, 2024

Compass Point Research & Trading, LLC  
1055 Thomas Jefferson Street N.W., Suite 303  
Washington, DC, 20007

Ladies and Gentlemen:

NewLake Capital Partners, Inc., a Maryland corporation (the “**Company**”), and NLCP Operating Partnership, LP, a Delaware limited partnership and the Company’s operating partnership (the “**Operating Partnership**”) confirm their respective agreements (this “**Agreement**”) with Compass Point Research & Trading, LLC in its capacity as sales agent for the Company (“**Agent**” and, together with the Company, the “**Parties**”), as follows:

1. **Issuance and Sale of Shares.** The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell to or through Agent, as sales agent and/or principal up to that number of shares of the Company’s common stock, par value \$0.01 per share (the “**Common Stock**”), having an aggregate offering price of \$50,000,000 (the “**Shares**”); *provided, however*, that in no event shall the Company issue or sell to or through Agent such number of Shares that would (a) cause the Company not to satisfy the eligibility requirements for use of Form S-3 (including, if and so long as applicable, General Instruction I.B.6. of Form S-3), (b) exceed the number or amount of shares of Common Stock then available for offer and sale under the currently effective Registration Statement (as defined below) pursuant to which the offering hereunder and under any Terms Agreement (as defined below) is being made or (c) exceed the number of authorized but unissued shares of the Company’s Common Stock (the lesser of (a), (b) and (c), the “**Maximum Amount**”). Notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree that compliance with the limitations set forth in this **Section 1** on the Maximum Amount of Shares that may be issued and sold under this Agreement and any Terms Agreement (as defined below) shall be the sole responsibility of the Company, and that Agent shall have no obligation in connection with such compliance. The Company agrees that whenever it determines to sell Shares directly to Agent, as principal, it will enter into a separate agreement (each, a “**Terms Agreement**”) in a form to be agreed upon by the Company and the Agent relating to such sale in accordance with **Section 2(b)** of this Agreement (each such transaction being referred to as a “**Principal Transaction**”). Each transaction pursuant to this Agreement in which the Company determines to sell Shares through Agent, as sales agent, is hereinafter referred to as an “**Agency Transaction**.” The issuance and sale of Shares to or

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through Agent will be effected pursuant to the Registration Statement (as defined below) filed by the Company and which was declared effective under the Securities Act (as defined below) by the U.S. Securities and Exchange Commission (the “**Commission**”).

The Company has prepared and filed, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Securities Act**”), with the Commission, not earlier than three years prior to the date hereof, a “shelf registration statement” on Form S-3 (File No. 333-267894), including a base prospectus, with respect to offerings of certain securities of the Company, including the Shares, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Exchange Act**”). The Company has prepared a prospectus supplement to the base prospectus included as part of such registration statement at the time it became effective specifically relating to the offering of the Shares pursuant to this Agreement (the “**Prospectus Supplement**”). The Company will furnish to Agent, for use by Agent, copies of the base prospectus included as part of such registration statement at the time it became effective, as supplemented by the Prospectus Supplement. Except where the context otherwise requires, such registration statement as declared effective by the Commission, including the information, if any, deemed pursuant to Rule 430B or 430C under the Securities Act, as applicable, to be part of the registration statement at the time of its effectiveness and all documents filed as part thereof or incorporated by reference therein, and including any information contained in the Prospectus (as defined below) subsequently filed with the Commission pursuant to Rule 424(b) under the Securities Act, collectively, are herein called the “**Registration Statement**,” and the base prospectus included in the registration statement at the time it became effective, including all documents incorporated therein by reference to the extent such information has not been superseded or modified in accordance with Rule 412 under the Securities Act (as qualified by Rule 430B(g) of the Securities Act), as it may be supplemented by the Prospectus Supplement, in the form filed by the Company with the Commission pursuant to Rule 424(b) under the Securities Act, together with any “issuer free writing prospectus”, as defined in Rule 433 under the Securities Act (“**Rule 433**”), relating to the Shares that (i) is required to be filed with the Commission by the Company or (ii) is exempt from filing pursuant to Rule 433(d)(5)(i), in each case, in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g), is herein called the “**Prospectus**.” If the Company has filed an abbreviated registration statement to register additional securities of the Company pursuant to Rule 462(b) under the Securities Act, then any reference to the Registration Statement in this Agreement shall also be deemed to include such abbreviated registration statement filed by the Company pursuant to Rule 462(b) under the Securities Act. Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein (such documents incorporated or deemed to be incorporated by reference are herein called the “**Incorporated Documents**”). For

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purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to its Electronic Data Gathering Analysis and Retrieval system, or if applicable, the Interactive Data Electronic Applications system when used by the Commission (collectively, “**EDGAR**”).

The Company and the Operating Partnership may also in the future enter into additional equity distribution agreements (if any, the “**Additional Sales Agreements**”) with one or more additional agents and/or principals. The aggregate offering price of the Shares that may be sold pursuant to this Agreement and the Additional Sales Agreements shall not exceed the Maximum Amount.

2. Placements; Principal Transactions.

(a) Each time that the Company wishes to issue and sell Shares hereunder in an Agency Transaction (each, a “**Placement**”), it will notify Agent by email notice (or other method mutually agreed to in writing (including by email) by the Parties) of the amount of Shares requested to be sold or the gross proceeds to be raised in a given time period, the time period during which sales are requested to be made, any limitation on the amount of Shares that may be sold in any single day, any minimum price below which sales may not be made or any minimum price requested for sales in a given time period and any other instructions relevant to such requested sales (a “**Placement Notice**”), the form of which is attached hereto as **Schedule 1**. A Placement Notice shall originate from any of the individual representatives of the Company set forth on **Schedule 3**, and shall be addressed to each of the individual representatives of Agent set forth on **Schedule 3**, as such **Schedule 3** may be amended from time to time. Provided the Company is otherwise in compliance with the terms of this Agreement, the Placement Notice shall be effective unless and until (i) Agent, in accordance with the notice requirements set forth in **Section 4**, declines to accept the terms contained therein for any reason, in its sole discretion (which shall not be deemed a breach of Agent’s agreement herein), (ii) the entire amount of the Shares thereunder have been sold or the aggregate Shares sold under this Agreement and all Terms Agreements equals the Maximum Amount, whichever occurs first, (iii) the Company, in accordance with the notice requirements set forth in **Section 4**, suspends or terminates the Placement Notice or sales thereunder, (iv) Agent, in accordance with the notice requirements set forth in **Section 4**, suspends sales under the Placement Notice, (v) the Company issues a subsequent Placement Notice with parameters superseding those on the earlier dated Placement Notice or (vi) this Agreement has been terminated under the provisions of **Section 9** or **Section 13**. The amount of any commission to be paid by the Company to Agent in connection with the sale of the Shares effected through Agent, as agent, in an Agency Transaction shall be calculated in accordance with the terms set forth in **Schedule 2**. It is expressly acknowledged and agreed that neither the Company nor Agent will have any obligation whatsoever with respect to a Placement or any Shares unless and until the Company delivers a Placement Notice to Agent and Agent does not decline such Placement Notice

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pursuant to the terms set forth above, and then only upon the terms specified therein and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice, the terms of the Placement Notice will control.

(b) If the Company wishes to issue and sell Shares hereunder in a Principal Transaction, it will notify Agent by email notice (or other method mutually agreed to in writing by the Parties) of the proposed terms of the Principal Transaction. If Agent, acting as principal, wishes to accept such proposed terms (which it may decline to do for any reason in its sole discretion) or, following discussions with the Company, wishes to accept amended terms, the Company and Agent shall enter into a Terms Agreement setting forth the terms of such Principal Transaction. Neither the Company nor Agent shall have any obligation to enter into a Principal Transaction. The terms set forth in a Terms Agreement shall not be binding on the Company or Agent, unless and until the Company and Agent have each executed such Terms Agreement accepting all of the terms of such Terms Agreement. Any such Terms Agreement shall specify the number or amount of Shares to be sold by the Company to and purchased by Agent pursuant thereto, the per share purchase price to be paid to the Company for such Shares (specifying and giving effect to all market price discounts applicable to such Principal Transaction), all other compensation and/or other fees or expenses payable by the Company to or for the benefit of Agent in connection with such Principal Transaction, the Net Proceeds (as defined below) payable to the Company, the time, date and place of delivery of and payment for such Shares (to the extent the settlement terms for sales of such Shares are intended to differ from those set forth in Section 5 hereof), and the other terms upon which such sale is to occur. A Terms Agreement may also specify certain provisions relating to the reoffering of such Shares by Agent. Each of the Parties acknowledges and agrees that such Principal Transaction shall be based on compensation that is mutually agreeable to both the Company and Agent. In the event of a conflict between the terms of this Agreement and the terms of a Terms Agreement, the terms of the Terms Agreement will control. The commitment of Agent to purchase the Shares as principal pursuant to any Terms Agreement shall be deemed to have been made on the basis of the representations, warranties and agreements of the Company contained in this Agreement and shall be subject to the terms and conditions herein set forth. Each of the Parties acknowledges and agrees that, notwithstanding anything to the contrary contained in this Agreement or any Terms Agreement, Agent may engage in sales and other transactions in respect of a number of shares of Common Stock equal to the number of Shares deliverable to Agent pursuant to a Terms Agreement, whether or not Agent has taken possession of such Shares at the time of such sales or other transactions, and nothing contained in this Agreement or any Terms Agreement shall limit or be deemed to limit Agent's ability to engage in such sales or other transactions.

3. Sale of Shares by Agent. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon the Company's issuance of a Placement Notice in an Agency Transaction, and unless the sale of the Shares described therein has been declined, suspended or otherwise terminated in accordance with the terms of

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this Agreement, Agent, as sales agent for the Company, will use its commercially reasonable efforts, consistent with its normal trading and sales practices and applicable state and federal laws, rules and regulations and the rules of the OTCQX Best Market operated by the OTC Markets Group, Inc. (the “**Exchange**”); provided however, that in the event the Common Stock is ever listed or traded on The Nasdaq Capital Market, The Nasdaq Global Market, The Nasdaq Global Select Market, the New York Stock Exchange, the NYSE American, the NYSE Arca, or the OTCQB operated by the OTC Markets Group, Inc. (or any nationally recognized successors thereto), then the “Exchange” shall mean such other market or exchange on which the Common Stock is then listed or traded or any successor thereto, for the period specified in the Placement Notice to sell such Shares up to the amount specified by the Company in, and otherwise in accordance with the terms of, such Placement Notice. If acting as sales agent in an Agency Transaction, Agent will provide written confirmation to the Company no later than the opening of the Trading Day (as defined below) following the Trading Day on which it has made sales of Shares hereunder, setting forth the number of Shares sold on such day, the compensation payable by the Company to Agent with respect to such sales pursuant to Section 2 (it being hereby acknowledged and agreed that such compensation shall not apply when Agent acts as principal, in which case such compensation, discounts or other fees shall be set forth in the applicable Terms Agreement), and the Net Proceeds (as defined below) payable to the Company, with an itemization of the deductions made by Agent (as set forth in Section 5(a)) from the gross proceeds for the Shares that it receives from such sales. Agent may sell Shares, as sales agent in an Agency Transaction, by any method permitted by law deemed to be an “at-the-market” offering as defined in Rule 415 under the Securities Act, including, without limitation, sales made directly on the Exchange, on any other existing trading market for the Common Stock, in block trades or to or through a market maker or through an electronic communications network. After consultation with the Company and subject to the terms of a Placement Notice, Agent may also sell Shares, as sales agent in an Agency Transaction, in privately negotiated transactions, including, without limitation, in block trades. During the term of this Agreement and notwithstanding anything to the contrary herein, Agent agrees that in no event will it or any of its affiliates engage in any market making, bidding, stabilization or other trading activity with regard to the Common Stock if such activity would be prohibited under Regulation M or other anti-manipulation rules under the Exchange Act. Each of the Company and the Operating Partnership acknowledge and agree that (i) there can be no assurance that Agent will be successful in selling Shares in any Agency Transaction hereunder, (ii) Agent will incur no liability or obligation to the Company, the Operating Partnership or any other person or entity if it does not sell Shares in any Agency Transaction for any reason other than a failure by Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Shares as required under this Section 3, and (iii) Agent shall be under no obligation to purchase Shares on a principal basis pursuant to this Agreement, except as may otherwise be specifically agreed by each of Agent and the Company pursuant to a Terms Agreement, and then only to the extent permitted by applicable law and the rules and regulations of the Exchange. For the purposes hereof, “**Trading Day**” means any day on which Common Stock is purchased and sold on the principal market on which the Common Stock is listed or quoted.

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4. Suspension of Sales.

(a) The Company or Agent may, upon notice to the other party in writing (including by email correspondence to each of the individual representatives of the other party set forth on **Schedule 3**, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individual representatives of the other party set forth on **Schedule 3**), suspend this offering and any sale of Shares in an Agency Transaction (a “**Suspension Notice**”) for a period of time (a “**Suspension Period**”); *provided, however*, that such suspension shall not affect or impair either party’s obligations with respect to any Shares sold hereunder prior to the receipt of such Suspension Notice. Each of the Parties agrees that no such Suspension Notice under this **Section 4** shall be effective against the other unless it is made to one of the individuals named on **Schedule 3** hereto, as such Schedule may be amended from time to time. During a Suspension Period, the Company shall not issue any Placement Notices and Agent shall not sell any Shares hereunder. The party that issued a Suspension Notice shall notify the other party in writing of the Trading Day on which the Suspension Period shall expire not later than twenty-four (24) hours prior to such Trading Day.

(b) Notwithstanding any other provision of this Agreement or any Terms Agreement, the Company shall not offer or sell, or request the offer or sale of, any Shares and, by notice to Agent given by telephone (confirmed promptly by verifiable facsimile transmission or email), shall cancel any instructions for the offer or sale of any Shares, and Agent shall not be obligated to offer or sell any Shares, (i) during any period in which the Company is, or may be deemed to be, in possession of material non-public information or (ii) except as expressly provided in **Section 4(c)** below, at any time from and including the date (each, an “**Announcement Date**”) on which the Company shall issue a press release containing, or shall otherwise publicly announce, its earnings, revenues or other results of operations (each, an “**Earnings Announcement**”) through and including the time that is 24 hours after the time that the Company files (a “**Filing Time**”) a quarterly report on Form 10-Q or an annual report on Form 10-K that includes consolidated financial statements as of and for the same period or periods, as the case may be, covered by such Earnings Announcement.

(c) If the Company wishes to offer, sell or deliver Shares at any time during the period from and including an Announcement Date through and including the time that is 24 hours after the corresponding Filing Time, the Company shall, as conditions to the giving or continuation of any Placement Notice with respect to an Agency Transaction or the execution by Agent of any Terms Agreement with respect to a Principal Transaction, (i) prepare and deliver to Agent (with a copy to counsel to Agent) a report on Form 8-K which shall include substantially the same financial and related information as was set forth in the relevant Earnings Announcement (other than any earnings or other projections, similar forward-looking data and officers’ quotations) (each, an “**Earnings**

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**8-K**”), in form and substance reasonably satisfactory to Agent and its counsel, (ii) provide Agent with the officer’s certificate called for by Section 7(m), dated the date of the Placement Notice for such Agency Transaction or the Settlement Date of such Principal Transaction, as applicable, which certificate shall be deemed to remain in effect during the applicable period unless withdrawn by the Company, and the opinion of Company Counsel (or Reliance Letter, as applicable), Company Tax Counsel (or Reliance Letter, as applicable), Company Maryland Counsel (or Reliance Letter, as applicable), and Comfort Letter called for by Sections 7(n) and 7(o), respectively, dated the date of the Placement Notice for such Agency Transaction or the Settlement Date of such Principal Transaction, as applicable, (iii) afford Agent the opportunity to conduct a due diligence review in accordance with Section 7(k) hereof and (iv) file such Earnings 8-K with the Commission (so that it is deemed “filed” for purposes of Section 18 of the Exchange Act). The provisions of clause (ii) of Section 4(b) shall not be applicable for the period from and after the time at which the conditions set forth in the immediately preceding sentence shall have been satisfied (or, if later, the time that is 24 hours after the time that the relevant Earnings Announcement was first publicly released) through and including the time that is 24 hours after the Filing Time of the relevant Quarterly Report on Form 10-Q or Annual Report on Form 10-K, as the case may be. For purposes of clarity, the Parties agree that (A) the delivery of any officers’ certificate, opinion of Company Counsel (or Reliance Letter, as applicable) and Comfort Letter pursuant to this Section 4(c) shall not relieve the Company from any of its obligations under this Agreement with respect to any quarterly report on Form 10-Q, annual report on Form 10-K, or report on Form 8-K, as the case may be, including, without limitation, the obligation to deliver the officers’ certificate, opinion of Company Counsel (or Reliance Letter, as applicable), Comfort Letter and certificate of chief financial officer and chief accounting officer called for by Sections 7(m), 7(n), 7(o) and 7(p) respectively, which Sections shall have independent application, and (B) this Section 4(c) shall in no way affect or limit the operation of the provisions of clause (i) of Section 4(b), which shall have independent application.

(d) If either Agent or the Company believes that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the Company or the Shares, such party shall promptly notify the other party thereof, and sales of the Shares under this Agreement and any Placement Notice or Terms Agreement shall be suspended until such exemptive provisions or such other applicable exemptive provisions have been satisfied in the judgment of each of Agent and the Company.

5. Settlement.

(a) Settlement of Shares. Unless otherwise specified in the applicable Placement Notice or Terms Agreement (as applicable), settlement for sales of Shares will occur on the first (1st) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each, a “**Settlement**”).

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**Date**”). The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Shares sold (the “**Net Proceeds**”) will be equal to the aggregate sales price received by Agent for the Shares, after deduction for (i) Agent’s commission for such sales payable by the Company pursuant to Section 2 hereof in an Agency Transaction, or Agent’s compensation, discounts or other fees pursuant to the terms of the applicable Terms Agreement in a Principal Transaction, as applicable, (ii) any other amounts due and payable by the Company to Agent hereunder and under any Terms Agreement, as applicable, pursuant to Section 7(g) (Expenses) hereof and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales.

(b) Delivery of Shares. On or before each Settlement Date, the Company will, or will cause its transfer agent to, issue and electronically transfer the Shares being sold by crediting Agent’s or its designee’s (provided Agent shall have given the Company written notice of such designee prior to the Settlement Date) account at The Depository Trust Company through its Deposit and Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the Parties, which Shares in all cases shall be freely tradeable, transferable, registered shares in good deliverable form. On each Settlement Date, Agent will deliver the related Net Proceeds in same day funds to an account designated by the Company prior to the Settlement Date. The Company agrees that if the Company, or its transfer agent, defaults in its obligation to deliver Shares on a Settlement Date pursuant to the terms of any Agency Transaction or Terms Agreement, in addition to and in no way limiting the rights and obligations set forth in Section 10(a) (Indemnification by the Company), the Company will (i) hold Agent, its directors, officers, members, partners, employees and agents of Agent and each person, if any, who (A) controls Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act or (B) is controlled by or is under common control with Agent (other than the Company and its subsidiaries) (a “**Agent Affiliate**”), harmless against any loss, claim, damage, or expense (including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company or its transfer agent (if applicable) and (ii) pay to Agent any commission or other compensation (including the value of any market price discounts in any applicable Principal Transaction) to which it would otherwise have been entitled absent such default.

(c) Limitations on Offering Size. With respect to each Trading Day during which sales are requested to be made pursuant to a Placement Notice in an Agency Transaction, under no circumstances shall the Company cause or request the offer or sale of any Shares pursuant to this Agreement on, or over the course of, such Trading Day in excess of 25% of the average daily trading volume (as such term is used in Rule 10b-18 of the Exchange Act) in the Common Stock on the Exchange for the thirty (30) Trading Days immediately preceding the date of delivery of the Placement Notice, or as otherwise agreed between the Company and Agent and documented in the applicable Placement Notice. Under no circumstances shall the Company cause or request the offer or sale of any Shares pursuant to this Agreement or any Terms Agreement (i) if, after giving effect

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to the sale of such Shares, the aggregate number of Shares sold pursuant to this Agreement and all Terms Agreements would exceed the lesser of (A) the Maximum Amount and (B) the number or amount authorized from time to time to be issued and sold under this Agreement by the Company's board of directors, a duly authorized committee thereof or a duly authorized executive committee, and notified to Agent in writing, or (ii) at a price lower than the minimum price therefor authorized from time to time by the Company's board of directors, a duly authorized committee thereof or a duly authorized executive committee, and notified to Agent in writing. Under no circumstances shall the aggregate number of Shares sold pursuant to this Agreement and all Terms Agreements exceed the Maximum Amount. Notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree that compliance with the limitations set forth in this Section 5(c) on the number or amount of Shares that may be issued and sold under this Agreement and any Terms Agreement shall be the sole responsibility of the Company, and that Agent shall have no obligation in connection with such compliance.

6. Representations and Warranties of the Company and the Operating Partnership. Each of the Company and the Operating Partnership represents and warrants to, and agrees with, Agent that as of (i) the date of this Agreement, (ii) each Representation Date (as defined in Section 7(m)) on which a certificate is required to be delivered pursuant to Section 7(m), (iii) the date on which any Placement Notice is delivered by the Company hereunder, (iv) the date on which any Terms Agreement is executed by the Company and Agent and (v) each time of sale of Shares pursuant to this Agreement or any Terms Agreement (each such time of sale, an "**Applicable Time**"), as the case may be:

(a) Registration Statement and Prospectus. The Company meets the requirements for use of Form S-3 under the Securities Act for the offering and sale of the Shares contemplated by this Agreement (without reliance on General Instruction I.B.6) and the Shares have been and remain eligible for registration by the Company on such shelf registration statement. Each of the Registration Statement and any post-effective amendment thereto has (A) been prepared by the Company in conformity with the requirements of the Securities Act; (B) been filed with the Commission under the Securities Act; (C) was declared effective under the Securities Act, and (D) been delivered by the Company to Agent. The Company has complied to the Commission's satisfaction with all requests of the Commission for additional or supplemental information. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the Securities Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company's knowledge, contemplated. The Company has complied with each request (if any) from the Commission for additional information.

Each of the Registration Statement and any post-effective amendment thereto, at the time of its effectiveness and at each deemed effective date with respect to Agent pursuant to Rule 430B(f)(2) under the Securities Act, conformed and will conform in all

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material respects, at the time it became effective, to the requirements of the Securities Act. Each preliminary prospectus (including the prospectus filed as part of the Registration Statement as originally filed or as part of any amendment or supplement thereto), any supplement thereto or any prospectus wrapper prepared in connection therewith, and the Prospectus conformed in all material respects when filed with the Commission pursuant to Rule 424(b) of the Securities Act to the requirements of the Securities Act. The Prospectus delivered to Agent was or will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, when they became effective or at the time they were filed with the Commission, complied and will comply in all material respects with the requirements of the Exchange Act.

(b) Accurate Disclosure. Neither the Registration Statement nor any amendment thereto, at the times they became effective, at each deemed effective date with respect to Agent pursuant to Rule 430(B)(f)(2) under the Securities Act, at each Applicable Time and at each Representation Date, contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading. Neither the Prospectus (nor any one or more issuer free writing prospectuses, when considered together with the Prospectus) contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), as of its date, at the time of filing with the Commission pursuant to Rule 424(b) under the Securities Act, at each Applicable Time or at any Representation Date, contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing Prospectus, at the time the Registration Statement became effective or when such documents incorporated by reference were or hereafter are filed with the Commission, as the case may be, when read together with the other information in the Registration Statement, the Prospectus or such issuer free writing prospectus when considered together with the Prospectus, as the case may be, did not and will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement (or any amendment thereto), any issuer

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free writing prospectus or the Prospectus (or any amendment or supplement thereto (including any prospectus wrapper)), made in reliance upon and in conformity with written information furnished to the Company by the Agent specifically for use therein (the “**Agent Information**”).

(c) **Issuer Free Writing Prospectuses.** Each issuer free writing prospectus conformed or will conform in all material respects to the requirements of the Securities Act on the date of first use, and the Company has complied with all prospectus delivery and any filing requirements applicable to such issuer free writing prospectus pursuant to the Securities Act. The Company has not made any offer relating to the Shares that would constitute an issuer free writing prospectus without the prior written consent of Agent. The Company has retained in accordance with the Securities Act all issuer free writing prospectuses that were not required to be filed pursuant to the Securities Act. No issuer free writing prospectus conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated or deemed incorporated by reference therein.

(d) **Company Not Ineligible Issuer.** The Company was not, at the time of filing of the Registration Statement and any post-effective amendment thereto and at the earliest time thereafter that the Company or another offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) of the Securities Act) of the Shares, and at the date hereof is not, an “ineligible issuer” (as defined in Rule 405 under the Securities Act), without taking account of any determination by the Commission pursuant to Rule 405 under the Securities Act that it is not necessary that the Company be considered an ineligible issuer.

(e) **Independent Accountants.** The accountants who certified the financial statements included or incorporated by reference in the Registration Statement are independent public accountants as required by the Securities Act and the Exchange Act, if applicable, and with respect to BDO USA, P.C., the Public Company Accounting Oversight Board. BDO USA, P.C. has not, during the periods covered by the financial statements included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus, provided to the Company any non-audit services, as such term is defined in Section 10A(g) of the Exchange Act.

(f) **Financial Statements; Non-GAAP Financial Measures.** The historical financial statements (including the related notes and supporting schedules) included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus comply as to form in all material respects with the requirements of Regulation S-X under the Securities Act, are accurate in all material respects and present fairly the financial position of the Company on a consolidated basis at the dates indicated; said financial statements have been prepared in conformity with accounting principles generally accepted in the United States (“**GAAP**”) applied on a consistent basis throughout the periods involved. The supporting schedules, if any, present fairly in

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accordance with GAAP the information required to be stated therein. The selected financial data and the summary financial information included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus present fairly the information shown therein in all material respects and have been compiled on a basis consistent with that of the audited financial statements included therein. The financial statements, including any statement of revenues and certain expenses, of the businesses or properties acquired or proposed to be acquired, if any, included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus present fairly in all material respects the information set forth therein, have been prepared in conformity with GAAP applied on a consistent basis, except as noted therein, and otherwise have been prepared in all material respects in accordance with the applicable financial statement requirements of Rule 3-05 or Rule 3-14 of Regulation S-X with respect to real estate operations acquired or to be acquired. The pro forma financial statements and the related notes thereto included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus, if any, present fairly in all material respects the information shown therein, have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and have been properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. The pro forma financial statements included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus, if any, comply as to form with the applicable requirements of Regulation S-X of the Securities Act in all material respects. No other financial statements or supporting schedules of the Company or any of its subsidiaries are required to be included or incorporated by reference in the Registration Statement, the Prospectus or any issuer free writing prospectus under the Securities Act. All disclosures included or incorporated by reference in the Registration Statement, the Prospectus and any issuer free writing prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the Prospectus and any free writing prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(g) No Material Adverse Change in Business. Since the respective dates as of which information is given in the Registration Statement, the Prospectus and any issuer free writing prospectus except as otherwise stated therein, (A) there has been no material adverse change in or affecting the business affairs, business, earnings, condition (financial or otherwise), results of operations, stockholders' equity, properties, management or prospects of the Company, the Operating Partnership and its subsidiaries considered as one enterprise (including all of the properties of the Company and its

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subsidiaries), whether or not arising in the ordinary course of business (a “**Material Adverse Effect**”), (B) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business, which are material with respect to such entities considered as one enterprise or incurred any liability or obligation, direct or contingent, that is material to such entities considered as one enterprise, and (C) except for regular monthly or quarterly dividends on the Common Stock, in amounts per share that are consistent with past practice, there has been no dividend or distribution of any kind declared, paid or made by the Company or any of its subsidiaries on any class of the capital stock or other equity interest of such entities.

(h) Good Standing of the Company. The Company has been duly organized, is validly existing and in good standing as a corporation under the laws of the State of Maryland with full corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Prospectus and any issuer free writing prospectus and to enter into and perform its obligations under this Agreement and, as the sole general partner of the Operating Partnership, to cause the Operating Partnership to enter into and perform the Operating Partnership’s obligations under this Agreement. The Company is duly qualified as a foreign corporation to transact business and in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of its businesses, except where the failure to be so qualified or in good standing would not, singly or in the aggregate, result in a Material Adverse Effect.

(i) Good Standing of the Operating Partnership. The Operating Partnership has been duly formed, is validly existing and in good standing as a limited partnership under the laws of the State of Delaware with full partnership power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Prospectus and any issuer free writing prospectus and to enter into and perform its obligations under this Agreement. The Operating Partnership is duly qualified as a foreign partnership to transact business and in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of its businesses, except where the failure to be so qualified or in good standing would not, singly or in the aggregate, result in a Material Adverse Effect. The Company is the sole general partner of the Operating Partnership. The ownership of the Operating Partnership is as set forth in the Registration Statement and the Prospectus.

(j) Good Standing of Subsidiaries. Each subsidiary of the Company has been duly organized, is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, has corporate or similar power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Prospectus and any issuer free writing prospectus, and is duly qualified to transact business and in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the

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conduct of its business, except where the failure to be so qualified or in good standing would not, singly or in the aggregate, result in a Material Adverse Effect. All of the issued and outstanding capital stock or other ownership interests of each subsidiary has been duly authorized and validly issued, is (as applicable) fully paid and non-assessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity. None of the outstanding shares of capital stock or other ownership interests of any subsidiary was issued in violation of the preemptive or similar rights of any securityholder of such subsidiary. The Company does not own or control, directly or indirectly, any corporation, association or other entity that is or will be a “significant subsidiary” (within the meaning of Rule 1-02(w) of Regulation S-X) other than the entities listed on Schedule 4 hereto. For the purposes of this Agreement, “subsidiary” means each direct and indirect subsidiary of the Company, including, without limitation, the Operating Partnership.

(k) Partnership Agreement. The Amended and Restated Agreement of Limited Partnership of the Operating Partnership, dated July 15, 2020 (the “Partnership Agreement”), has been duly and validly authorized by the Company, in its capacity as sole general partner of the Operating Partnership, and has been duly executed and delivered by the Company, as general partner, and is a valid and binding agreement, enforceable in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar laws affecting creditors’ rights generally and by general equitable principles and, with respect to equitable relief, the discretion of the court before which any proceeding therefor may be brought (regardless of whether enforcement is sought in a proceeding at law or in equity) and, with respect to any indemnification provisions contained therein, except as rights under those provisions may be limited by applicable law or policies underlying such law.

(l) Capitalization. The authorized, issued and outstanding shares of capital stock of the Company are as set forth in the Registration Statement and the Prospectus (except for subsequent issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the Registration Statement, the Prospectus and any issuer free writing prospectus or pursuant to the exercise, redemption, or exchange of convertible or exchangeable securities, options or warrants referred to in the Registration Statement, the Prospectus and any issuer free writing prospectus, including limited partner interests and preferred limited partner interests in the Operating Partnership). The issued and outstanding shares of capital stock of the Company have been duly authorized and validly issued, are fully paid and non-assessable, conform to the description thereof contained in the Registration Statement and the Prospectus and were issued in compliance with federal and state securities laws and not in violation of any preemptive right, resale right, right of first refusal or similar right. The issuance of such shares of capital stock of the Company was exempt from registration or qualification under the Securities Act and applicable state securities laws.

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The issued and outstanding limited partnership interests in the Operating Partnership have been duly authorized for issuance by the Operating Partnership and are validly issued and fully paid, conform to the description thereof contained in the Registration Statement and the Prospectus and were issued in compliance with federal and state securities laws and not in violation of any preemptive right, resale right, right of first refusal or similar right. The partnership interests in the Operating Partnership are owned as set forth in the Registration Statement and the Prospectus. The issuance of such limited partnership interests in the Operating Partnership was exempt from registration or qualification under the Securities Act and applicable state securities laws. The Company's stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder conform in all material respects to the descriptions thereof contained in the Registration Statement and the Prospectus. Except as disclosed in the Registration Statement and the Prospectus, no options, warrants or other rights to purchase, agreements or other obligations to issue, or rights to convert any obligations into or exchange any securities or interests for shares of the Company's or its subsidiaries' capital stock, including limited partnership interests in the Operating Partnership or other ownership interests of the Operating Partnership or exchange any securities for shares of the Company's capital stock are outstanding.

(m) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company and the Operating Partnership.

(n) Authorization and Description of Securities. The Shares have been duly authorized for issuance and sale to Agent pursuant to this Agreement and, when issued and delivered by the Company pursuant to this Agreement against payment of the consideration set forth herein, will be validly issued, fully paid and non-assessable, will conform to the description thereof contained in the Registration Statement and the Prospectus, will be issued in compliance with federal and state securities laws and will not be issued in violation of any preemptive right, resale right, right of first refusal or similar right. The Common Stock conforms in all material respects to all statements relating thereto contained in the Registration Statement, the Prospectus and any issuer free writing prospectus and such description conforms in all material respects to the rights set forth in the instruments defining the same. No holder of Common Stock will be subject to personal liability solely by reason of being such a holder. If the Shares are certificated, the certificates to be used to evidence title to the Shares, will be in substantially the form filed as an exhibit to the Registration Statement.

(o) Registration Rights. Except as described in the Registration Statement and the Prospectus, there are no contracts, agreements or understandings between the Company or the Operating Partnership and any person granting such person the right to require the Company or the Operating Partnership to file a registration statement under the Securities Act with respect to any securities of the Company or the Operating Partnership owned or to be owned by such person or to require the Company or the Operating Partnership to include such securities in the securities registered pursuant to

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the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act.

(p) Absence of Violations and Defaults. Neither the Company nor any of its subsidiaries is (A) in violation of its charter, bylaws or similar organizational documents, (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease, license or other agreement or instrument to which the Company or any subsidiary is a party or by which it is bound or to which any of the properties or assets of the Company or any subsidiary is subject (collectively, "**Agreements and Instruments**"), except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect, or (C) except as disclosed in the Registration Statement, the Prospectus, in violation of any federal, state, local or foreign statute or rule, or any order, rule or regulation of any arbitrator, court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, assets or operations (each, a "**Governmental Entity**").

(q) Absence of Conflicts. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and in the Registration Statement and the Prospectus (including the issuance and sale of the Shares from time to time pursuant to this Agreement, and the use of the proceeds from the sale of the Shares as described in the Prospectus under the caption "Use of Proceeds") and the compliance by the Company and the Operating Partnership with their respective obligations hereunder have been duly authorized by all necessary corporate or other action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Company or any subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the charter, bylaws or similar organizational documents of the Company or any of its subsidiaries, or, except as disclosed in the Registration Statement, and the Prospectus, any applicable law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity. As used herein, a "**Repayment Event**" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(r) Absence of Labor Dispute. No labor dispute with the employees of the Company or any subsidiary exists or, to the knowledge of the Company, is imminent, and

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the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or any subsidiary's principal suppliers, manufacturers, customers or contractors, which, in either case, would result in a Material Adverse Effect.

(s) Employee Benefits. (A) The Company and each of its subsidiaries or their "ERISA Affiliates" (as defined below) are in compliance in all respects with all applicable provisions of the Employee Retirement Income Security Act of 1974, as amended, including the regulations and published interpretations thereunder ("**ERISA**"); (B) no "reportable event" (as defined in ERISA) has occurred with respect to any "employee benefit plan" (as defined in ERISA) for which the Company or any of its subsidiaries or ERISA Affiliates would have any liability; (C) the Company and each of its subsidiaries or their ERISA Affiliates have not incurred and do not reasonably expect to incur liability under Title IV of ERISA with respect to termination of, or withdrawal from, any "employee benefit plan"; and (D) each "employee benefit plan" for which the Company and each of its subsidiaries or any of their ERISA Affiliates would have any liability that is intended to be qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively, the "Code"), is so qualified in all material respects and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification; except, in the cases of (A), (B), and (C), as would not reasonably be expected to have a Material Adverse Effect. "**ERISA Affiliate**" means, with respect to the Company or any of its subsidiaries, any member of any group of organizations described in Sections 414(b), (c) or (m) of the Code or Section 4001(b)(1) of ERISA of which the Company or such subsidiary is a member.

(t) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity now pending or, to the knowledge of the Company, threatened against the Company or any subsidiary, which is required to be disclosed in the Registration Statement and which is not so disclosed, or which would reasonably be expected to result in a Material Adverse Effect, or would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in this Agreement or the performance by the Company and the Operating Partnership of their obligations hereunder; and the aggregate of all pending legal or governmental proceedings to which the Company or any subsidiary is a party or of which any of their respective properties or assets is the subject which are not described in the Registration Statement and the Prospectus, including ordinary routine litigation incidental to the business, would not result in a Material Adverse Effect.

(u) Accuracy of Descriptions. The statements made in the Registration Statement and the Prospectus under the caption "Description of Capital Stock," insofar as it purports to constitute a summary of the terms of the Common Stock, and under the captions "Risk Factors," "Description of Capital Stock," "Certain Provisions of Maryland Law and of Our Charter and Bylaws," "Description of the Operating Agreement of our Operating Partnership," and "Material Federal Income Tax Considerations," insofar as

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such statements constitute summaries of the terms of statutes, rules or regulations, legal matters or governmental proceedings or agreements, contracts and other documents, are accurate and fair summaries of the terms of such statutes, rules or regulations, legal matters or governmental proceedings or agreements, contracts and other documents in all material respects. All agreements between the Company or any of its subsidiaries and any other party expressly referenced in the Registration Statement and the Prospectus are legal, valid and binding obligations of the Company or such subsidiary, as applicable, enforceable against the Company or such subsidiaries, as applicable, as appropriate, in accordance with their respective terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent transfer, moratorium or similar laws affecting creditors' rights generally and by general equitable principles and, with respect to equitable relief, the discretion of the court before which any proceeding therefor may be brought (regardless of whether enforcement is sought in a proceeding at law or in equity) and, with respect to any indemnification provisions contained therein, except as rights under those provisions may be limited by applicable law or policies underlying such law. The Company's operating policies, investment guidelines and other policies described in the Registration Statement and the Prospectus accurately reflect in all material respects the current intentions of the Company with respect to the operation of its business, and no material deviation from such guidelines or policies is currently contemplated.

(v) Accuracy of Exhibits. There are no legal or governmental proceedings or contracts or other documents of a character required to be described in the Registration Statement and the Prospectus or, in the case of documents to be filed as exhibits to the Registration Statement, which are not described and filed as required.

(w) Absence of Further Requirements. No consent, approval, authorization, license or order of, or filing or registration of or with, any Governmental Entity is necessary or required for the execution, delivery and performance by the Company or any subsidiary of its obligations hereunder, in connection with the offering, issuance and sale of the Shares hereunder, or its consummation of the transactions contemplated by this Agreement or the Registration Statement, the Prospectus or any issuer free writing prospectus, or the application of the proceeds from the sale of the Shares as described under "Use of Proceeds" in the Registration Statement and the Prospectus, except such as have been obtained or made and except for such as have been obtained or as may be required under the Securities Act and the rules and regulations promulgated thereunder, the rules of the Exchange, applicable state or foreign securities laws or the by-laws and rules of the Financial Industry Regulatory Authority, Inc. ("**FINRA**").

(x) Possession of Licenses and Permits. Except as described in the Registration Statement and the Prospectus, the Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "**Governmental Licenses**") issued by the appropriate Governmental Entities necessary to conduct the business now operated by them, except where the failure so to possess would

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not, singly or in the aggregate, result in a Material Adverse Effect. The Company and its subsidiaries are in compliance with the terms and conditions of all Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, singly or in the aggregate, result in a Material Adverse Effect. Neither the Company nor any subsidiary has received any notice of proceedings relating to the revocation or modification of any Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(y) Title to Personal Property. Each of the Company and its subsidiaries have good and marketable title to all of its assets and personal property owned by it, free and clear of all liens, encumbrances and defects, except such as are described in the Registration Statement and the Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and all assets and personal property held under lease by the Company and its subsidiaries are held by it under valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made and proposed to be made of such assets by the Company and its subsidiaries and the Company does not have notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company and its subsidiaries under any such leases or affecting or questioning the rights of the Company and its subsidiaries to be in the continued possession of the leased premises under such leases.

(z) Property. (i) The Company and its subsidiaries have good and marketable fee simple title (or in the case of ground leases, a valid leasehold interest) to all real property owned by them and the improvements (exclusive of improvements owned by tenants or by landlords, if applicable) located thereon, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind, except such as (A) are described in the Registration Statement and the Prospectus, (B) will not, singly or in the aggregate, materially affect the value of such property and do not interfere in any material respect with the use made and proposed to be made of such property by the Company or any of its subsidiaries, or (C) would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; (ii) except as otherwise set forth in or described in the Registration Statement and the Prospectus and except as would not, individually or in the aggregate, reasonably be expected have a Material Adverse Effect, all of the leases and subleases of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries hold properties described in the Registration Statement and the Prospectus, are in full force and effect, and neither the Company nor any subsidiary has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or

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affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease; (iii) none of the Company or any of its subsidiaries has received from any Governmental Entities any written notice of any condemnation or zoning change affecting the properties of the Company and its subsidiaries or any part thereof, and none of the Company or any of its subsidiaries knows of any condemnation or zoning change affecting the properties of the Company and its subsidiaries which is threatened and, in each case, which if consummated would reasonably be expected to, individually or in the aggregate, to have a Material Adverse Effect; (iv) each of the properties of the Company and its subsidiaries complies with all applicable codes, ordinances, laws and regulations (including without limitation, building and zoning codes, laws and regulations and laws relating to access to the properties of the Company and its subsidiaries), except for failures to the extent disclosed in the Registration Statement and the Prospectus and except for such failures to comply that would not individually or in the aggregate reasonably be expected to have a Material Adverse Effect; (v) neither the Company nor any subsidiary has received written notice of proposed material special assessment or any proposed change in any property tax, zoning or land use law or availability of water affecting any property that would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and (vi) to the knowledge of the Company and its subsidiaries, there are no uncured events of default, or events that with the giving of notice or passage of time, or both, would constitute an event of default, by any tenant under any of the terms and provisions of the leases, where such default(s) would, individually or in the aggregate, reasonably be expected have a Material Adverse Effect.

(aa) No Acquisitions or Dispositions. (A) There are no contracts, letters of intent, term sheets, agreements, arrangements or understandings with respect to the direct or indirect acquisition or disposition by any of the Company or its subsidiaries of interests in assets or real property that are required to be described in the Registration Statement and the Prospectus that are not so described; and (B) except as set forth in or described in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has sold any real property to a third party during the immediately preceding 12 calendar months.

(ab) Title Insurance. Title insurance in favor of the Company, the Operating Partnership and the subsidiaries has been obtained with respect to each property owned by any such entity, except where the failure to maintain such title insurance would not have a Material Adverse Effect.

(ac) Mortgages; Deeds of Trust. The Company has provided to Agent true and complete copies of all indentures, credit agreements, mortgages, deeds of trust, guaranties, side letters, and other documents evidencing, securing or otherwise relating to any secured or unsecured indebtedness of the Company or any of its subsidiaries (collectively, the "**Loan Documents**"), and none of the Company and its subsidiaries that is party to any of the Loan Documents is in default thereunder, nor has an event occurred

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which with the passage of time or the giving of notice, or both, would become a default by any of them under any of the Loan Documents, except as otherwise set forth in the Registration Statement and the Prospectus, and except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as disclosed in the Registration Statement and the Prospectus, none of the properties owned by the Company or its subsidiaries is encumbered by any credit agreements, mortgages, deeds of trust, guaranties, side letters, and other documents evidencing, securing or otherwise relating to any secured or unsecured indebtedness of the Company or any of its subsidiaries.

(ad) Environmental Laws. Except as would not, singly or in the aggregate, result in a Material Adverse Effect, (A) neither the Company nor any of its subsidiaries has violated or is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials, mold or any hazardous materials as defined by or regulated under any Environmental Laws, as defined below (collectively, "**Hazardous Materials**") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "**Environmental Laws**"), (B) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements, and (C) there are no pending or known threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries.

(ae) Accounting Controls and Disclosure Controls. The Company and each of its subsidiaries (A) make and keep accurate books and records and (B) maintain effective internal control over financial reporting (as defined under Rule 13-a15 and 15d-15 under the Exchange Act) and a system of internal accounting controls sufficient to provide reasonable assurances that (1) transactions are executed in accordance with management's general or specific authorization, (2) transactions are recorded as necessary to permit preparation of the Company's financial statements in conformity with GAAP and to maintain accountability for its assets, (3) access to the Company's assets is permitted only in accordance with management's general or specific authorization, and (4) the recorded accountability for the Company's assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Since the Company's incorporation, except as disclosed in the Registration Statement and the Prospectus, there has been (A) no material weakness in the Company's internal

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control over financial reporting (whether or not remediated) and (B) no change in the Company's internal control over financial reporting that has materially affected or is reasonably likely to materially affect the Company's internal control over financial reporting. Since the date of the most recent audited financial statements of the Company, except as disclosed in the Registration Statement and the Prospectus, the Company has not been advised of (A) any significant deficiencies in the design or operation of internal controls that could adversely affect the ability of the Company to record, process, summarize and report financial data, and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the internal controls of the Company.

(af) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their respective capacities as such, to comply with all provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder or implementing provisions thereof (the "**Sarbanes-Oxley Act**") that are then in effect and with which the Company is required to comply as of the effectiveness of the Registration Statement, and is actively taking steps to ensure that it will be in compliance with other provisions of the Sarbanes-Oxley Act not currently in effect, upon the effectiveness of such provisions, or which will become applicable to the Company at all times after the effectiveness of the Registration Statement.

(ag) Critical Accounting Policies. The description of the Company's accounting policies included or incorporated by reference in the Registration Statement and the Prospectus accurately and fully describes, in all material respects, (A) the accounting policies that the Company believes are the most important in the portrayal of the Company's financial condition and results of operations and that require management's most difficult, subjective or complex judgments ("**Critical Accounting Policies**"); (B) the judgments and uncertainties affecting the application of Critical Accounting Policies; and (C) the likelihood that materially different amounts would be reported under different conditions or using different assumptions and an explanation thereof.

(ah) Federal Tax Status. Commencing with its short taxable year ended December 31, 2019, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a real estate investment trust (a "**REIT**") under the Code, and will operate in a manner that will enable it to meet the requirements for qualification and taxation as a REIT under the Code. The ownership and method of operation of the Company as described in the Registration Statement and the Prospectus has enabled the Company to meet the requirements for qualification and taxation as a REIT under the Code commencing with the Company's taxable year ended December 31, 2019 and will enable the Company to meet the requirements for qualification and taxation as a REIT under the Code for the Company's taxable years ending December 31, 2024, and thereafter. The Company does not know of any event that would reasonably be

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expected to cause the Company to fail to qualify as a REIT under the Code during any such time. All statements regarding the Company's qualification and taxation as a REIT and descriptions of the Company's organization, ownership and method of operation set forth in the Registration Statement and the Prospectus are true, correct and complete in all material respects. Each of the Company's direct or indirect subsidiaries treated as a corporation for tax purposes has been, is, and will be a "taxable REIT subsidiary" within the meaning of Section 856(l) of the Code, during the time such subsidiary is treated as a corporation for tax purposes, and the Company is not aware of any fact that would negatively impact such qualification. Each other direct and indirect subsidiary of the Company has been properly treated since formation, and will continue to be properly treated, as a partnership or a disregarded entity (rather than an association or partnership taxable as a corporation) within the meaning of Section 7701 of the Code and all applicable regulations under the Code and no election has been made to the contrary. NewLake Capital Partners, Inc., a Maryland corporation ("**Target**"), qualified as a REIT for U.S. federal income tax purposes for its taxable year ended December 31, 2020 through the time of its merger with and into NL Merger Sub, LLC, a Maryland limited liability company, a subsidiary of the Company, on or about March 17, 2021. The Operating Partnership has been, is and will be treated as a partnership within the meaning of Sections 7701(a)(2) and 761(a) of the Code and not as a publicly traded partnership taxable as a corporation under Section 7704 of the Code.

(ai) Payment of Taxes. The Company and its current (and with respect to (A) and (B), former) subsidiaries (including Target) (A) have paid all material federal, state, local and foreign taxes (whether imposed directly, through withholding or otherwise and including any interest, additions to tax or penalties applicable thereto) required to be paid through the date hereof, other than those being contested in good faith by appropriate proceedings and for which adequate reserves have been provided on the books of the applicable entity, (B) have timely filed all material tax returns or extensions thereof required to be filed through the date hereof, and all such tax returns are correct and complete in all material respects, and (C) have adequate liquidity to pay all taxes when due and payable. The charges, accruals and reserves on the books of the Company and its subsidiaries in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not result in a Material Adverse Effect. No tax deficiency has been asserted by a governmental agency against the Company or any of its current or former subsidiaries (including Target), nor does any such entity know of any tax deficiency that is likely to be asserted and, if determined adversely to any such entity, would reasonably be expected to have a Material Adverse Effect.

(aj) Possession of Intellectual Property. The Company and its subsidiaries own or possess adequate rights to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, know-how, software, systems and technology

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(including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) necessary for the conduct of its business as described in the Registration Statement and the Prospectus, and has no reason to believe that the conduct of its business will conflict with, and has not received any notice of any claim of conflict with, any such rights of others. There is no pending or, to the knowledge of the Company, threatened action, suit, proceeding, or claim by others challenging the rights of the Company or any subsidiary in or to such rights. There is no pending or, to the Company's knowledge, threatened action, suit, proceeding, or claim by others that the Company or any subsidiary infringes, misappropriates, or otherwise violates any such rights of others.

(ak) Insurance. The Company and its subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as the Company believes is generally maintained by companies of established repute engaged in the same or similar business and in such amounts as is commercially reasonable for the value of the properties, in the aggregate, by the Company and its subsidiaries, and all such insurance is in full force and effect. The Company has no reason to believe that it or the Operating Partnership will not be able (A) to renew its existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(al) Investment Company Act. Neither the Company, the Operating Partnership nor any subsidiary is required, or upon the issuance and sale of the Shares from time to time as herein contemplated and the application of the net proceeds therefrom as described under "Use of Proceeds" in the Registration Statement and the Prospectus will be required, to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of such terms under the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder.

(am) Absence of Manipulation. Neither the Company nor any affiliate of the Company has taken, nor will the Company or any affiliate take, directly or indirectly, any action designed to or that has constituted or that could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares, and has taken no action which would directly or indirectly violate Regulation M or which would constitute a special selling effort as such term is defined under Regulation M.

(an) Foreign Corrupt Practices Act. None of the Company, any of its subsidiaries, or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of such entity is aware of or has taken any

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action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “**FCPA**”), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA and the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA, and the Company has instituted and maintains policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance by the Company and its subsidiaries therewith.

(ao) Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the “**Money Laundering Laws**”); and no action, suit or proceeding by or before any Governmental Entity involving the Company or any subsidiary with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(ap) No Conflicts with OFAC Laws. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or representatives of the Company or any of its subsidiaries is an individual or entity (“Person”) currently the subject or target of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, His Majesty’s Treasury of the United Kingdom, or other relevant sanctions authority (collectively, “Sanctions”), nor is the Company located, organized or resident in a country or territory that is the subject of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea, Syria and the so-called Donetsk People’s Republic and the so-called Luhansk People’s Republic located in Ukraine (each a “**Sanctioned Country**”); and the Company will not directly or indirectly use the net proceeds of the sale of the Shares, or lend, contribute or otherwise make available such net proceeds to any subsidiaries, joint venture partners or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. The Company, the Operating Partnership and each of their respective subsidiaries have not engaged in and are not now

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engaged in any unlawful dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(aq) Distribution of Offering Material. The Company and its subsidiaries have not distributed and will not distribute any offering material in connection with the offering and sale of the Shares to be sold hereunder by Agent as agent for the Company, other than the Prospectus or any permitted free writing prospectus reviewed and consented to by Agent.

(ar) Restrictions on Distributions. No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any distributions to the Company or the Operating Partnership, from making any other distribution on such subsidiary's equity interests, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in or contemplated by the Registration Statement and the Prospectus.

(as) Prior Sales of Common Stock. Except as disclosed in the Registration Statement and the Prospectus, the Company has not sold, issued or distributed any shares of Common Stock.

(at) No Equity Awards. Except for grants pursuant to equity incentive plans disclosed in the Registration Statement and the Prospectus, the Company has not granted to any person or entity, a stock option or other equity-based award to purchase or receive Common Stock or limited partnership interests in the Operating Partnership pursuant to an equity-based compensation plan or otherwise.

(au) No Finder's Fee. Except for Agent's discounts and commissions payable by the Company to Agent in connection with the offering of the Shares contemplated herein or as otherwise disclosed in the Registration Statement and the Prospectus, the Company has not incurred any liability for any brokerage commission, finder's fees or similar payments in connection with the offering of the Shares contemplated hereby.

(av) Exchange Listing. The Company will have applied to have the Shares approved for quotation or listing on the Exchange, to the extent required by applicable rules and regulations of the Exchange, prior to each Representation Date. The Company is in compliance with the rules and regulations of the Exchange, including without limitation, the requirements for continued quotation of the Common Stock on the Exchange, and there are no actions, suits or proceedings pending, threatened or, to the Company's knowledge, contemplated, and the Company has not received any notice from the Exchange, regarding the revocation of such or otherwise regarding the delisting of the Common Stock from the Exchange.

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(aw) Absence of Certain Relationships. No relationship, direct or indirect, exists between or among the Company or its subsidiaries, on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company, on the other hand, that is required to be described in the Registration Statement and the Prospectus which is not so described. The Company has not, directly or indirectly, including through any subsidiary, extended credit, arranged to extend credit, or renewed any extension of credit, in the form of a personal loan, to or for any executive officer of the Company or the Operating Partnership, or to or for any family member or affiliate of any director or executive officer of the Company or the Operating Partnership.

(ax) No Integration. Neither the Company nor the Operating Partnership has sold or issued any securities that would be integrated with the offering of the Shares contemplated by this Agreement pursuant to the Securities Act.

(ay) Lending Relationship. Except as disclosed in the Registration Statement and the Prospectus, the Company (A) does not have any material lending or other relationship with any bank or lending affiliate of Agent and (B) does not intend to use any of the net proceeds from the sale of the Shares to repay any outstanding debt owed to any affiliate of Agent.

(az) No Ratings. The Company and the Operating Partnership have no debt securities or preferred stock that is rated by any “nationally recognized statistical rating agency” (as such term is defined by the Commission for purposes of Rule 436(g)(2) of the Securities Act).

(ba) No FINRA Affiliations. There are no affiliations or associations between any member of FINRA and any of the Company’s officers, directors or 5% or greater securityholders.

(bb) Statistical and Market-Related Data. All statistical and market-related data included in the Registration Statement the Prospectus and any issuer free writing prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate, and such data agree with the sources from which they are derived, and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(bc) Emerging Growth Company. From the time of the initial confidential submission of the Registration Statement to the Commission through and including the date hereof, the Company has been and is an “emerging growth company” as defined in Section 2(a) of the Securities Act (an “**Emerging Growth Company**”).

(bd) Cybersecurity. With such exceptions as would not, individually or in the aggregate, have a Material Adverse Effect: (A) there has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company’s or any of its subsidiaries’ information technology and computer systems,

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networks, hardware, software, data and databases (including the data and information of their respective tenants, customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company or any of its subsidiaries, and any such data processed or stored by third parties on behalf of the Company or any of its subsidiaries), equipment or technology (collectively, "IT Systems and Data"); (B) neither the Company nor any of its subsidiaries has been notified of, and have no knowledge of any event or condition that would result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data; and (C) the Company and its subsidiaries have implemented appropriate controls, policies, procedures and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. The Company and its subsidiaries are presently in material compliance with all applicable laws and statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification.

Any certificate signed by an officer of the Company and delivered to Agent or to counsel for Agent pursuant to or in connection with this Agreement or any Terms Agreement shall be deemed to be a representation and warranty by the Company and the Operating Partnership to Agent as to the matters set forth therein as of the date or dates indicated therein.

7. Covenants of the Company and the Operating Partnership. Each of the Company and the Operating Partnership, jointly and severally, covenant and agree with Agent that:

(a) Registration Statement Amendments. After the date of this Agreement and during any period in which a Prospectus relating to any Shares is required to be delivered by Agent under the Securities Act (without regard to the effects of Rules 153, 172 and 173 under the Securities Act) (the "**Prospectus Delivery Period**"), (i) the Company will notify Agent promptly of the time when any subsequent amendment to the Registration Statement, other than the Incorporated Documents, has been filed with the Commission and/or has become effective or any subsequent supplement to the Prospectus has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information, (ii) the Company will prepare and file with the Commission, promptly upon Agent's request, any amendments or supplements to the Registration Statement or Prospectus that, in Agent's reasonable judgment, may be necessary or advisable in connection with the distribution of the Shares by Agent (*provided, however*, that the failure of Agent to make such request shall not relieve the Company of any obligation or liability hereunder and under any Terms Agreement, as applicable, or affect Agent's right to rely on the representations and warranties made by the Company and the Operating Partnership in this Agreement); (iii) the Company will not file any amendment or supplement to the Registration Statement or

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Prospectus relating to the Shares (except for the Incorporated Documents) unless a copy thereof has been submitted to Agent a reasonable period of time before the filing and Agent has not reasonably objected thereto (*provided, however*, (A) that the failure of Agent to make such objection shall not relieve the Company of any obligation or liability hereunder and under any Terms Agreement, as applicable, or affect Agent's right to rely on the representations and warranties made by the Company and the Operating Partnership in this Agreement, (B) that, if Agent objects thereto, Agent may cease making sales of Shares pursuant to this Agreement and/or may terminate any Terms Agreement and (C) that the Company has no obligation to provide Agent any advance copy of such filing or to provide Agent an opportunity to object to such filing if such filing does not name Agent or does not relate to the transactions contemplated hereunder or under any Terms Agreement); (iv) the Company will furnish to Agent at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via EDGAR; and (v) the Company will cause each amendment or supplement to the Prospectus to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act (without reliance on Rule 424(b)(8) of the Securities Act) or, in the case of any Incorporated Document, to be filed with the Commission as required pursuant to the Exchange Act, within the time period prescribed (the determination to file or not file any amendment or supplement with the Commission under this Section 7(a), based on the Company's reasonable opinion or reasonable objections, shall be made exclusively by the Company).

(b) Notice of Commission Stop Orders. During the Prospectus Delivery Period, the Company will advise Agent, promptly after it receives notice or obtains knowledge thereof, of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any notice objecting to, or other order preventing or suspending the use of, the Prospectus, of the suspension of the qualification of the Shares for offering or sale in any jurisdiction, or of the initiation of any proceeding for any such purpose or any examination pursuant to Section 8(e) of the Securities Act, or if the Company becomes the subject of a proceeding under Section 8A of the Securities Act in connection with the offering of the Shares; and it will promptly use its commercially reasonable efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued. Until such time as any stop order is lifted, Agent may cease making offers and sales under this Agreement or any Terms Agreement.

(c) Delivery of Prospectus; Subsequent Changes. During the Prospectus Delivery Period, the Company will comply with all requirements imposed upon it by the Securities Act, as from time to time in force, and to file on or before their respective due dates all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14, 15(d) or any other provision of or under the Exchange Act. If the Company has omitted any information from the Registration Statement pursuant to Rule 430A under the Securities

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Act, it will use its commercially reasonable efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to said Rule 430A and to notify Agent promptly of all such filings. If during the Prospectus Delivery Period any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during such period it is necessary to amend or supplement the Registration Statement or Prospectus to comply with the Securities Act, the Company will promptly notify Agent to suspend the offering of Shares during such period, and the Company will promptly amend or supplement the Registration Statement or Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance.

(d) Listing of Shares. During the Prospectus Delivery Period, the Company will use its commercially reasonable efforts to cause the Shares to be listed or quoted on the Exchange, as applicable. The Company will timely file with the Exchange all material documents and notices required by the Exchange of companies that have or will issue securities that are traded or quoted on the Exchange.

(e) Delivery of Registration Statement and Prospectus. The Company will furnish to Agent and its counsel (at the expense of the Company) electronic copies of the Registration Statement, the Prospectus (including all Incorporated Documents) and all amendments and supplements to the Registration Statement or Prospectus that are filed with the Commission during the Prospectus Delivery Period, including all documents filed with the Commission during such period that are deemed to be incorporated by reference therein, in each case, as soon as reasonably practicable via e-mail in “.pdf” format to an e-mail account designated by Agent and, at Agent’s request, will also furnish copies of the Prospectus to each exchange or market on which sales of the Shares may be made; *provided, however,* that the Company shall not be required to furnish any document (other than the Prospectus) to Agent to the extent such document is available on EDGAR.

(f) Earnings Statement. The Company will make generally available to its security holders as soon as practicable, but in any event not later than 16 months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) and Rule 158 of the Securities Act. The terms “earnings statement” and “make generally available to its security holders” shall have the meanings set forth in Rule 158 under the Securities Act.

(g) Expenses. The Company, whether or not the transactions contemplated hereunder or under any Terms Agreement are consummated or this Agreement or any Terms Agreement is terminated in accordance with the provisions of Section 9 or Section 13 hereunder, will pay all expenses incident to the performance of its obligations

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hereunder and under each Terms Agreement, including, but not limited to, expenses relating to: (i) the preparation, printing, filing and delivery to Agent of the Registration Statement and each amendment and supplement thereto, of each Prospectus and of each amendment and supplement thereto, and of this Agreement and such other documents as may be required in connection with the offering, purchase, sale, issuance or delivery of the Shares; (ii) the preparation, issuance and delivery of the Shares, including any general clearing and settlement fees, stock or other transfer taxes, and any stamp or other duties payable in connection with the sale, issuance or delivery of the Shares to Agent; (iii) the fees and disbursements of the counsel, accountants and other advisors to the Company in connection with the transactions contemplated by this Agreement and any Terms Agreement; (iv) the qualification of the Shares under securities laws in accordance with the provisions of Section 7(x), including filing fees, if any (v) the fees and expenses incurred in connection with the listing or qualification of the Shares for trading on the Exchange; (vi) the fees and expenses of the transfer agent or registrar for the Common Stock; (vii) the filing fees incident to the review by FINRA of the terms of the sale of the Shares; (viii) the reasonable documented out-of-pocket expenses of the Agent, including the reasonable fees, disbursements and expenses of counsel for the Agent in connection with this Agreement and the Registration Statement and ongoing services in connection with the transactions contemplated hereunder, in an amount not to exceed (A) \$60,000 arising out of executing this Agreement and the filing of the Prospectus Supplement and (B) in an amount not to exceed \$10,000 per each quarter thereafter (solely for any quarter that includes a Representation Date); and (ix) all other costs and expenses incident to the performance by the Company of its obligations hereunder.

(h) Use of Proceeds. The Company and the Operating Partnership will use the Net Proceeds from the sale of the Shares in the manner set forth in the Prospectus under the caption "Use of Proceeds."

(i) Other Sales. Without the prior written consent of Agent, the Company will not, directly or indirectly, offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of any Common Stock (other than the Shares offered pursuant to this Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire, Common Stock during the period beginning on the fifth (5<sup>th</sup>) Trading Day immediately prior to the date on which any Placement Notice is delivered to Agent hereunder and ending on the fifth (5<sup>th</sup>) Trading Day immediately following the final Settlement Date with respect to Shares sold pursuant to such Placement Notice (or, if the Placement Notice has been terminated or suspended prior to the sale of all Shares covered by a Placement Notice, the date of such suspension or termination); and will not directly or indirectly in any other "at-the-market" or continuous equity transaction offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of any Common Stock (other than the Shares offered pursuant to this Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire, Common Stock prior to the later of the termination of this Agreement and the twentieth (20<sup>th</sup>) day immediately following the final Settlement Date

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with respect to Shares sold pursuant to such Placement Notice; *provided, however*, that such restrictions will not be required in connection with the Company's issuance or sale of (i) Common Stock, options to purchase Common Stock, other equity awards to acquire Common Stock, or Common Stock issuable upon the exercise or vesting of options or other equity awards, pursuant to any employee or director equity awards or benefits plan, stock ownership plan or dividend reinvestment plan (but not Common Stock subject to a waiver to exceed plan limits in its dividend reinvestment plan) of the Company whether now in effect or hereafter implemented, (ii) Common Stock issuable upon conversion of securities or the exercise or vesting of warrants, options or other rights in effect or outstanding, and disclosed in filings by the Company available on EDGAR or otherwise in writing to Agent and (iii) Common Stock or securities convertible into or exchangeable for shares of Common Stock as consideration for mergers, acquisitions, other business combinations or strategic alliances, or offered and sold in a privately negotiated transaction to vendors, customers, lenders, investors, strategic partners or potential strategic partners, occurring after the date of this Agreement which are not issued primarily for capital raising purposes.

(j) Change of Circumstances. The Company will, at any time during the term of this Agreement, advise Agent promptly after it shall have received notice or obtained knowledge of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document required to be provided to Agent pursuant to this Agreement.

(k) Due Diligence Cooperation. The Company will cooperate with any reasonable due diligence review conducted by Agent or its agents in connection with the transactions contemplated hereby or any Terms Agreement, including, without limitation, providing information and making available documents and senior corporate officers, during regular business hours and at the Company's principal offices, as Agent may reasonably request.

(l) Required Filings Relating to Placement of Shares. The Company agrees that (i) on such dates as required under the Securities Act or under interpretations by the Commission thereof, the Company shall prepare a prospectus supplement, which will set forth the number of Shares sold to or through Agent during such quarterly period (or other relevant period), the Net Proceeds to the Company and the compensation paid or payable by the Company to Agent with respect to such sales of Shares and shall file such prospectus supplement pursuant to Rule 424(b) under the Securities Act (and within the time periods required by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, as applicable) and shall file any issuer free writing prospectus that is required to be filed with the Commission within the applicable time period prescribed for such filing by Rule 433 of the Securities Act or (ii) if such prospectus supplement is not so filed with respect to a particular fiscal quarter, the Company shall disclose the information referred to in clause (i) above in its annual report on Form 10-K or its quarterly report on Form 10-Q, as applicable, in respect of such quarterly period and shall file such report with the

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Commission within the applicable time period prescribed for such report under the Exchange Act. The Company shall not file any such prospectus supplement or issuer free writing prospectus relating to such sales unless a copy of such prospectus supplement or issuer free writing prospectus, as applicable, has been submitted to Agent a reasonable period of time before the filing and Agent has not reasonably objected thereto (provided, however, (A) that the failure of Agent to make such objection shall not relieve the Company of any obligation or liability hereunder and under any Terms Agreement, or affect Agent's right to rely on the representations and warranties made by the Company and the Operating Partnership in this Agreement, and (B) that, if Agent objects thereto, Agent may cease making sales of Shares pursuant to this Agreement or any Terms Agreement). The Company shall provide copies of the Prospectus and such prospectus supplement and any issuer free writing prospectus to Agent via e-mail in ".pdf" format on such filing date to an e-mail account designated by Agent and shall also furnish copies of the Prospectus and such prospectus supplement to each exchange or market on which sales of the Shares may be made as may be required by the rules or regulations of such exchange or market.

(m) Representation Dates; Certificates. On or prior to the date the first Placement Notice is given pursuant to this Agreement, each time Shares are delivered to Agent as principal on a Settlement Date with respect to a Principal Transaction and each time the Company (i) files the Prospectus relating to the Shares or amends or supplements the Registration Statement or the Prospectus relating to the Shares (other than (A) a prospectus supplement filed in accordance with Section 7(l) or (B) a supplement or amendment that relates to an offering of securities other than the Shares) by means of a post-effective amendment, sticker, or supplement, but not by means of incorporation of document(s) by reference in the Registration Statement or the Prospectus relating to the Shares; (ii) files an annual report on Form 10-K under the Exchange Act (including any Form 10-K/A containing amended financial information or a material amendment to the previously filed Form 10-K); (iii) files a quarterly report on Form 10-Q under the Exchange Act; (iv) files a report on Form 8-K containing amended financial information (other than information "furnished" pursuant to Items 2.02 or 7.01 of Form 8-K or to provide disclosure pursuant to Item 8.01 of Form 8-K relating to the reclassifications of certain properties as discontinued operations in accordance with Statement of Financial Accounting Standards No. 144) under the Exchange Act; or (v) at any other time reasonably requested by Agent (each date of filing of one or more of the documents referred to in clauses (i) through (iv) and at any time as reasonably requested by Agent pursuant to clause (v) shall be a "**Representation Date**"); the Company shall furnish Agent within two (2) Trading Days after each Representation Date (but in the case of clause (iv) above only if Agent reasonably determines that the information contained in such Form 8-K is material) with the certificate in the form attached hereto as Exhibit 7(m). The requirement to provide the certificate under this Section 7(m) shall be automatically waived for any Representation Date occurring at a time at which no Placement Notice or Terms Agreement is pending, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which

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for such calendar quarter shall be considered a Representation Date), Shares are delivered to Agent as principal on a Settlement Date with respect to a Principal Transaction and the next occurring Representation Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Shares following a Representation Date when the Company relied on such waiver and did not provide Agent with a certificate under this Section 7(m), then before the Company delivers the Placement Notice or Agent sells any Shares in an Agency Transaction, or on the applicable Settlement Date with respect to a Principal Transaction, the Company shall provide Agent with a certificate, in the form attached hereto as Exhibit 7(m), dated the date of the Placement Notice for such Agency Transaction or the Settlement Date of such Principal Transaction, as applicable.

(n) Legal Opinions. On or prior to the earlier of (i) the date the first Placement Notice is given pursuant to this Agreement and (ii) Shares are delivered to Agent as principal on a Settlement Date with respect to the first Principal Transaction pursuant to the first Terms Agreement and this Agreement, the Company shall cause to be furnished to Agent the written opinion and 10b-5 statement of Hunton Andrews Kurth LLP, to the effect set forth in Exhibit 7(n)-1, as issuer's counsel to the Company and the Operating Partnership, dated the date that the opinion and 10b-5 statement are required to be delivered, or other counsel reasonably satisfactory to Agent ("**Company Counsel**"), the written opinion of Hunton Andrews Kurth LLP, to the effect set forth in Exhibit 7(n)-2, in its capacity as tax counsel for the Company and the Operating Partnership ("**Company Tax Counsel**"), dated the date that the opinion is required to be delivered, or other tax counsel reasonably satisfactory to Agent, the written opinion of Venable LLP ("**Company Maryland Counsel**"), to the effect set forth in Exhibit 7(n)-3, as Maryland counsel to the Company and the Operating Partnership, dated the date that the opinion is required to be delivered, the written opinion of Pennsylvania counsel reasonably satisfactory to Agent ("**Company Pennsylvania Counsel**"), to the effect set forth in Exhibit 7(n)-4, in its capacity as Pennsylvania counsel to the Company's subsidiary organized in Pennsylvania, dated the date that the opinion is required to be delivered, and the written opinion of Foley & Lardner LLP, counsel for Agent ("**Agent Counsel**"), dated the date the opinion is required to be delivered. Thereafter, each time Shares are delivered to Agent as principal on a Settlement Date with respect to a Principal Transaction and within two (2) Trading Days after each Representation Date with respect to which the Company is obligated to deliver the certificate in the forms attached hereto as Exhibit 7(m) (excluding Representation Dates pursuant to Section 7(m)(iii)) for which no waiver is applicable pursuant to Section 7(m), and not more than once per calendar quarter, the Company shall cause to be furnished to Agent the written opinion and 10b-5 statement of Company Counsel, the written opinion of Company Tax Counsel, the written opinion of Company Maryland Counsel, the written opinion of Company Pennsylvania Counsel, and the written opinion of Agent Counsel substantially in the form previously agreed between the Parties, modified, as necessary, to relate to the Registration Statement and the Prospectus as then amended or supplemented; provided, however, that if Company Counsel, Company Tax Counsel, Company Maryland Counsel and/or Company Pennsylvania Counsel has previously furnished to Agent such written

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opinions and 10b-5 statement substantially in the form previously agreed between the Parties, Company Counsel, Company Tax Counsel, Company Maryland Counsel and/or Company Pennsylvania Counsel may, in respect of any future Representation Date, furnish Agent with a letter (a “**Reliance Letter**”) in lieu of such opinions and 10b-5 statement to the effect that Agent may rely on the prior opinions and 10b-5 statement of Company Counsel, Company Tax Counsel, Company Maryland Counsel and/or Company Pennsylvania Counsel delivered pursuant to this Section 7(n) to the same extent as if it were dated the date of such Reliance Letter (except that statements in such prior opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented to the date of such Reliance Letter).

(o) Comfort Letter. On or prior to the date the first Placement Notice is given pursuant to this Agreement, each time Shares are delivered to Agent as principal on a Settlement Date with respect to a Principal Transaction and within two (2) Trading Days after each Representation Date, with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(m) (excluding Representation Dates pursuant to Section 7(m)(iii)) for which no waiver is applicable pursuant to Section 7(m), the Company shall cause BDO USA, P.C. to furnish Agent a letter, dated as of such date (the “**Comfort Letter**”), in form and substance satisfactory to Agent, (i) confirming that they are an independent registered public accounting firm within the meaning of the Securities Act, the Exchange Act and the rules and regulations of the PCAOB and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to underwriters in connection with registered public offerings (the first such letter, the “**Initial Comfort Letter**”) and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(p) Certificate of Chief Financial Officer. On or prior to the date the first Placement Notice is given pursuant to this Agreement, each time Shares are delivered to Agent as principal on a Settlement Date with respect to a Principal Transaction and within two (2) Trading Days after each Representation Date, with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit 7(m) for which no waiver is applicable pursuant to Section 7(m), the Company shall furnish Agent with a certificate of the Chief Financial Officer of the Company, dated as of such date, in form and substance reasonably satisfactory to counsel for the Agent, to the effect set forth in Exhibit 7(p).

(q) Market Activities. The Company and the Operating Partnership shall not, and shall cause its subsidiaries and its and their respective directors, officers and controlling persons not to, directly or indirectly, (i) take any action designed to stabilize

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or manipulate, or which constitutes or might reasonably be expected to cause or result in, the stabilization or manipulation of, the price of any security of the Company to facilitate the sale or resale of the Shares or (ii) sell, bid for, or purchase the Shares to be issued and sold pursuant to this Agreement, or pay anyone any compensation for soliciting the purchases of the Shares, other than Agent.

(r) Insurance. The Company and its subsidiaries shall maintain, or cause to be maintained, insurance in such amounts and covering such risks the Company reasonably deems adequate.

(s) Compliance with Laws. The Company, the Operating Partnership and each of their subsidiaries shall maintain, or cause to be maintained, all material permits, licenses and other authorizations required by federal, state and local law in order to conduct their businesses as described in the Prospectus, and the Company, the Operating Partnership and each of their subsidiaries shall conduct their businesses, or cause their businesses to be conducted, in substantial compliance with such permits, licenses and authorizations and with applicable laws, except where the failure to maintain or be in compliance with such permits, licenses and authorizations could not reasonably be expected to have a Material Adverse Effect.

(t) REIT Treatment. The Company will use its commercially reasonable efforts to continue to meet the requirements for qualification and taxation as a REIT under the Code for the current and subsequent tax years that include any portion of the term of this Agreement, unless the Company's board of directors in good faith determines by resolution that it is no longer in the Company's best interests to so qualify.

(u) Securities Act and Exchange Act. The Company will use its commercially reasonable efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Shares as contemplated by the provisions hereof and any Terms Agreement and the Prospectus. Without limiting the generality of the foregoing, during the Prospectus Delivery Period, the Company will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act (giving effect to permissible extensions in accordance with Rule 12b-25 under the Exchange Act).

(v) Sarbanes-Oxley Act. The Company will comply with all effective applicable provisions of the Sarbanes-Oxley Act.

(w) No Offer To Sell. Other than a free writing prospectus (as defined in Rule 405 under the Securities Act) approved in advance in writing by the Company and Agent in its capacity as agent hereunder or as principal hereunder and under any Terms Agreement, neither Agent nor the Company (including its agents and representatives other than Agent in its capacity as such) will, directly or indirectly, make, use, prepare,

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authorize, approve or refer to any free writing prospectus relating to the Shares to be sold by Agent as agent hereunder or as principal hereunder and under any Terms Agreement.

(x) Investment Company Act. The Company shall conduct its affairs in such a manner so as to reasonably ensure that neither it nor any of its subsidiaries will be or become, at any time prior to the termination of this Agreement, an “investment company,” as such term is defined in the Investment Company Act.

(y) Transfer Agent. The Company shall maintain, at its sole expense, a registrar and transfer agent for the Common Stock.

(z) Blue Sky and Other Qualifications. The Company will qualify the Shares for offering and sale, or obtain an exemption for the Shares to be offered and sold, under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as Agent may designate and to maintain such qualifications and exemptions in effect for so long as required for the distribution of the Shares (but in no event for less than one year from the date of this Agreement); *provided, however*, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject. In each jurisdiction in which the Shares have been so qualified or exempt, the Company will file such statements and reports as may be required by the laws of such jurisdiction to continue such qualification or exemption, as the case may be, in effect for so long as required for the distribution of the Shares (but in no event for less than one year from the date of this Agreement). The Company will advise the Agent promptly of the suspension of the qualification or registration of (or any such exemption relating to) the Shares for offering, sale or trading in any jurisdiction or any initiation or threat of any proceeding for any such purpose, and in the event of the issuance of any order suspending such qualification, registration or exemption, the Company shall use its reasonable efforts to obtain the withdrawal thereof as soon as reasonably practicable.

(aa) Renewal of Registration Statement. If, immediately prior to the third (3<sup>rd</sup>) anniversary of the initial effective date of the Registration Statement (the “**Renewal Date**”), any of the Shares remain unsold and this Agreement has not been terminated for any reason, the Company will, prior to the Renewal Date, file a new shelf registration statement or, if applicable, an automatic shelf registration statement relating to the Shares, in a form reasonably satisfactory to Agent and its counsel, and, if such registration statement is not an automatic shelf registration statement, will use its commercially reasonable efforts to cause such registration statement to be declared effective within 180 days after the Renewal Date. The Company will take all other reasonable actions necessary or appropriate to permit the public offer and sale of the Shares to continue as contemplated in the expired registration statement relating to the Shares. From and after the effective date thereof, references herein to the “Registration

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Statement” shall include such new shelf registration statement or such new automatic shelf registration statement, as the case may be.

(ab) Consent to Agent Purchases. The Company acknowledges and agrees that Agent may, to the extent permitted under the Securities Act and the Exchange Act (including, without limitation, Regulation M promulgated thereunder), purchase and sell shares of Common Stock for its own account and for the account of its clients while this Agreement is in effect, including, without limitation, at the same time any Placement Notice is in effect or any sales of Shares occur pursuant to this Agreement or any Terms Agreement; provided that Agent acknowledges and agrees that, except pursuant to a Terms Agreement, any such transactions are not being, and shall not be deemed to have been, undertaken at the request or direction of, or for the account of, the Company, and that the Company has and shall have no control over any decision by Agent and its affiliates to enter into any such transactions.

(ac) Listing. During any Prospectus Delivery Period, the Company will use its commercially reasonable efforts to cause the Shares to be listed on the Exchange.

(ad) Filings with the Exchange. The Company will timely file with the Exchange all material documents and notices required by the Exchange of companies that have or will issue Shares that are traded on the Exchange.

(ae) Reporting Requirements. The Company, during any Prospectus Delivery Period, will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act.

8. Representations and Covenants of Agent. Agent represents and warrants that it is duly registered as a broker-dealer under FINRA, the Exchange Act and the applicable statutes and regulations of each state in which the Shares will be offered and sold, except such states in which Agent is exempt from registration or such registration is not otherwise required. Agent shall continue, for the term of this Agreement, to be duly registered as a broker-dealer under FINRA, the Exchange Act and the applicable statutes and regulations of each state in which the Shares will be offered and sold, except in such states in which Agent is exempt from registration or such registration is not otherwise required, during the terms of this Agreement. Agent will comply with all applicable laws and regulations in connection with the sale of Shares pursuant to this Agreement and any Terms Agreement, including, but not limited to, Regulation M under the Exchange Act. Other than compliance with standard internal operating procedures, the Agent is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency, regulatory agency, self-regulatory organization or stock market or any third party in order for it to execute, deliver or perform any of its obligations under this Agreement that it has not obtained or made.

9. Conditions to Agent's Obligations. The obligations of Agent hereunder with respect to a Placement in any Agency Transaction, and the obligations of Agent with respect to a Principal Transaction pursuant to any Terms Agreement and this Agreement, will in each case be

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subject to the continuing accuracy and completeness of the representations and warranties made by the Company and the Operating Partnership herein, to the due performance by the Company of its obligations hereunder and under any Terms Agreement, as applicable, to the completion by Agent of a due diligence review satisfactory to Agent in its reasonable judgment, and to the continuing satisfaction (or waiver by Agent in its sole discretion) of the following additional conditions:

(a) Registration Statement Effective. The Registration Statement shall be effective and shall be available for the offer and sale of all Shares that have been issued or are contemplated to be issued pursuant to all Placement Notices that have been delivered to Agent by the Company and all Terms Agreements that have been executed by the Parties.

(b) Prospectus Supplement. The Company shall have filed with the Commission the Prospectus Supplement pursuant to Rule 424(b) under the Securities Act not later than the Commission's close of business on the second Business Day following the date of this Agreement.

(c) No Material Notices. None of the following events shall have occurred and be continuing: (i) receipt by the Company of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or other order preventing or suspending the use of the Prospectus or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; or (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus or documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) No Amendments or Supplements. No prospectus or amendment or supplement to the Registration Statement, the Prospectus or any issuer free writing Prospectus shall be filed to which the Agent shall have reasonably objected in writing.

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(e) No Misstatement or Material Omission. Agent shall not have advised the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in Agent's reasonable opinion is material, or omits to state a fact that in Agent's opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(f) Material Changes. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any material adverse change to the condition, financial or otherwise, or in the properties, earnings, business affairs or business prospects of the Company, the Operating Partnership and its subsidiaries considered as one enterprise.

(g) Legal Opinions. Agent shall have received the opinions and 10b-5 statement required to be delivered pursuant to Section 7(n) on or before the date on which such delivery of such opinions are required pursuant to Section 7(n).

(h) Comfort Letter. Agent shall have received the Comfort Letter required to be delivered pursuant to Section 7(o) on or before the date on which such delivery of such Comfort Letter is required pursuant to Section 7(o).

(i) Representation Certificate. Agent shall have received the certificate required to be delivered pursuant to Section 7(m) on or before the date on which delivery of such certificate is required pursuant to Section 7(m).

(j) Certificate of the Chief Financial Officer. Agent shall have received the certificate required to be delivered pursuant to Section 7(p) on or before the date on which delivery of such certificate is required pursuant to Section 7(p).

(k) No Suspension. Trading in the Common Stock shall not have been suspended on the Exchange and the Common Stock shall not have been delisted from the Exchange.

(l) Other Materials. On each date on which the Company is required to deliver the certificate pursuant to Section 7(m), the Company shall have furnished to Agent such appropriate further information, certificates and documents as Agent may have reasonably requested. All such opinions, certificates, letters and other documents will be in compliance with the provisions hereof. The Company shall have furnished Agent with such conformed copies of such opinions, certificates, letters and other documents as Agent shall have reasonably requested.

(m) Securities Act Filings Made. All filings with the Commission required by Rule 424(b) and Rule 433 under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder or the Settlement Date with respect to any Principal Transaction under any Terms Agreement, as applicable shall have been made within the

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applicable time period prescribed for such filing by Rule 424(b) (without reliance on Rule 424(b)(8) of the Securities Act) and Rule 433.

(n) Approval for Listing. To the extent approval of listing or quotation of the Shares on the Exchange is required by the rules and regulations of the Exchange, the Shares shall have been so approved, subject only to notice of issuance.

(o) No Termination Event. There shall not have occurred any event that would permit Agent to terminate this Agreement pursuant to Section 13(a).

(p) FINRA. FINRA shall have confirmed that it has not raised any objection with respect to the fairness and reasonableness of the terms and arrangements relating to the sale of the Shares pursuant to this Agreement and any Terms Agreement, as applicable.

(q) Termination of Agreement. If any condition specified in this Section 9 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Agent by notice to the Company, and such termination shall be without liability of any party to any other party, except as provided in Section 7(g) (Expenses) hereof and except that, in the case of any termination of this Agreement, Section 7(g) (Expenses), Section 10 (Indemnification), Section 11 (Contribution), Section 12 (Survival of Representations), Section 13(f), Section 18 (Applicable Law; Consent to Jurisdiction) and Section 19 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination. For the avoidance of doubt, any such termination shall not affect or impair any party's obligations with respect to any Shares sold hereunder prior to the occurrence thereof.

#### 10. Indemnification.

(a) Indemnification by the Company. The Company and the Operating Partnership agree, jointly and severally, to indemnify and hold harmless Agent and its affiliates (as such term is defined in Rule 501(b) under the Securities Act (each, an "**Affiliate**")), its selling agents and each person, if any, who controls Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act as follows:

- (i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in "any issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to

make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 11(d) below) any such settlement is effected with the written consent of the Company, which consent shall not unreasonably be delayed or withheld; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by Agent), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with the Agent Information furnished in writing to the Company by Agent, expressly for use in the Registration Statement (or any amendment thereto), or in any issuer free writing prospectus or the Prospectus (or any amendment or supplement thereto). The indemnity agreement set forth in this Section 10(a) shall be in addition to any liabilities that the Company or the Operating Partnership may otherwise have.

(b) *Indemnification by Agent.* Agent agrees to indemnify and hold harmless the Company and the Operating Partnership, the Company's directors, each of the Company's officers who signed the Registration Statement, and each person, if any, who controls the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section 10, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), any "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with the Agent Information, furnished in writing to the Company by Agent expressly for use therein. The indemnity agreement set forth in this Section 10(b) shall be in addition to any other liabilities that Agent may otherwise have.

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(c) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action (including any governmental investigation) commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. The indemnifying party shall be entitled, to the extent that it shall elect, jointly with any other indemnifying party similarly notified, to assume the defense of such action, with counsel reasonably satisfactory to the indemnified party, to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (ii) the indemnifying party has failed within a reasonable time to retain counsel reasonably satisfactory to the indemnified party, (iii) the indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the indemnifying party, or (iv) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, and in any such event the reasonable fees and expenses of one separate counsel (and any additional local counsels) shall be paid by the indemnifying party. If the indemnifying party does not elect to assume the defense, then such firm shall be designated in writing by Agent, in the case of parties indemnified pursuant to Section 10(a), and by the Company in the case of parties indemnified pursuant to Section 10(b). No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 10 or Section 11 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Settlement without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 10(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such

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indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

11. Contribution. If the indemnification provided for in Section 10 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Operating Partnership, on the one hand, and Agent, on the other hand, from the offering of the Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company and the Operating Partnership, on the one hand, and of Agent, on the other hand, in connection with the statements or omissions, that resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company and the Operating Partnership, on the one hand, and Agent, on the other hand, in connection with the offering of the Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Shares pursuant to this Agreement (before deducting expenses) received by the Company and the Operating Partnership, on the one hand, and the total underwriting discount received by Agent, on the other hand, in each case as set forth on the cover of the Prospectus, bear to the aggregate initial public offering price of the Shares as set forth on the cover of the Prospectus.

The relative fault of the Company and the Operating Partnership, on the one hand, and Agent, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by each such party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company, the Operating Partnership, and Agent agree that it would not be just and equitable if contribution pursuant to this Section 11 were determined by pro rata allocation (even if Agent were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 11. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 11 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

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Notwithstanding the provisions of this Section 11, Agent shall not be required to contribute any amount in excess of the amount by which the total price at which the Shares sold by Agent pursuant to this agreement exceeds the amount of any damages which Agent has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 11, each person, if any, who controls Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and Agent's Affiliates and selling agents shall have the same rights to contribution as Agent, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Company or the Operating Partnership, subject in each case to the preceding two (2) paragraphs.

For purposes of this Section 11, the Company and the Operating Partnership shall be deemed one party, jointly and severally liable for any obligations hereunder.

12. Representations and Agreements to Survive Delivery. The indemnity and contribution agreements contained in Section 10 and Section 11 of this Agreement and all representations and warranties of the Company and the Operating Partnership herein or in certificates delivered pursuant hereto shall survive, as of their respective dates, regardless of (i) any investigation made by or on behalf of Agent, any controlling persons, or the Company (or any of their respective officers, directors or controlling persons), (ii) delivery and acceptance of the Shares and payment therefor or (iii) any termination of this Agreement.

13. Termination.

(a) Agent shall have the right, by giving notice as hereinafter specified in Section 14, at any time to terminate this Agreement and/or any Terms Agreement (including at any time at or prior to the Settlement Date with respect to the Shares to be sold under such Terms Agreement) if: (i) any Material Adverse Effect, or any development that has actually occurred and that would reasonably be expected to result in a Material Adverse Effect, has occurred that, in the reasonable judgment of Agent, may materially impair the ability of Agent to sell the Shares hereunder or as contemplated in any Terms Agreement or the Prospectus; (ii) there has occurred any (A) material adverse change in the financial markets in the United States or the international financial markets, (B) outbreak of hostilities or escalation thereof or other calamity or crisis or (C) change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which, in the reasonable judgment of Agent, may materially impair the ability of Agent to sell the Shares

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hereunder or as contemplated in any Terms Agreement or the Prospectus; (iii) trading in the Common Stock has been suspended or limited by the Commission or the Exchange, or if trading generally on the Exchange has been suspended or limited (including automatic halt in trading pursuant to market-decline triggers other than those in which solely program trading is temporarily halted), or minimum prices for trading have been fixed on the Exchange; (iv) any suspension of trading of any securities of the Company on any exchange or in the over-the-counter market shall have occurred and be continuing; (v) a major disruption of securities settlements or clearance services in the United States shall have occurred and be continuing; or (vi) a banking moratorium has been declared by either U.S. Federal or New York authorities.

(b) The Company shall have the right, by giving five (5) days' notice as hereinafter specified in Section 14, to terminate this Agreement in its sole discretion at any time after the date of this Agreement.

(c) Agent shall have the right, by giving five (5) days' notice as hereinafter specified in Section 14, to terminate this Agreement in its sole discretion at any time after the date of this Agreement.

(d) Unless earlier terminated pursuant to this Section 13, this Agreement shall automatically terminate upon the issuance and sale of all of the Shares to or through Agent on the terms and subject to the conditions set forth herein and any Terms Agreement.

(e) This Agreement shall remain in full force and effect unless terminated pursuant to Sections 12(a), (b), (c), or (d) above or otherwise by mutual agreement of the Parties.

(f) Any termination of this Agreement or any Terms Agreement shall be effective on the date specified in such notice of termination; *provided, however*, that such termination shall not be effective until the close of business on the date of receipt of such notice by Agent or the Company, as the case may be. If such termination, other than a termination of any Terms Agreement pursuant to Section 13(a) above, shall occur prior to the Settlement Date for any sale of Shares, such termination shall not become effective until the close of business on such Settlement Date and such Shares shall settle in accordance with the provisions of this Agreement (it being hereby acknowledged and agreed that a termination of any Terms Agreement pursuant to Section 13(a) above shall become effective in accordance with the first sentence of this Section 13(f) and shall relieve the Parties of their respective obligations under such Terms Agreement, including, without limitation, with respect to the settlement of the Shares subject to such Terms Agreement).

(g) If this Agreement is terminated pursuant to this Section 13, such termination shall be without liability of any party to any other party, except as provided in Section 7(g) hereof, and except that, in the case of any termination of this Agreement,

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the provisions of Section 7(g) (Expenses), Section 10 (Indemnification), Section 11 (Contribution), Section 12 (Survival of Representations), Section 13(f), Section 18 (Applicable Law; Consent to Jurisdiction) and Section 19 (Waiver of Jury Trial) hereof shall remain in full force and effect notwithstanding such termination.

14. Notices.

All notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement or any Terms Agreement shall be in writing, unless otherwise specified, and if sent to Agent, shall be delivered to

Compass Point Research & Trading, LLC  
1055 Thomas Jefferson Street NW, Suite 303  
Washington, DC 20007  
Attention: Burke Hayes  
Email: bhayes@compasspointllc.com

with copies (which shall not constitute notice) to:

Foley & Lardner LLP  
100 North Tampa Street  
Suite 2700  
Tampa, FL 33602  
Attention: Curt Creely, Esq.  
Facsimile: (813) 221-4210

and if to the Company and the Operating Partnership, shall be delivered to:

NewLake Capital Partners, Inc.  
27 Pine Street, Suite 50  
New Canaan, CT 06840  
Attention: Anthony Coniglio  
Facsimile: (917) 591-2391

with a copy (which shall not constitute notice) to:

Hunton Andrews Kurth LLP  
2200 Pennsylvania Avenue NW  
Washington, DC 20037  
Attention: Robert K. Smith, Esq.  
Facsimile: (202) 778-2201

Each party may change such address for notices by sending to the other party to this Agreement written notice of a new address for such purpose. Each such notice or other

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communication shall be deemed given (i) when delivered personally or by verifiable facsimile transmission (with an original to follow) on or before 4:30 p.m., New York City time, on a Business Day or, if such day is not a Business Day, on the next succeeding Business Day, (ii) on the next Business Day after timely delivery to a nationally-recognized overnight courier and (iii) on the Business Day actually received if deposited in the U.S. mail (certified or registered mail, return receipt requested, postage prepaid). For purposes of this Agreement, “**Business Day**” shall mean any day on which the Exchange and commercial banks in the City of New York are open for business.

An electronic communication (“**Electronic Notice**”) shall be deemed written notice for purposes of this Section 14 if sent to the electronic mail address specified by the receiving party under separate cover. Electronic Notice shall be deemed received at the time the party sending Electronic Notice receives confirmation of receipt by the receiving party (other than pursuant to auto-reply). Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form (“**Nonelectronic Notice**”) which shall be sent to the requesting party within ten (10) days of receipt of the written request for Nonelectronic Notice.

15. Successors and Assigns. This Agreement and any Terms Agreement shall inure to the benefit of and be binding upon the Company, the Operating Partnership and Agent and their respective successors and permitted assigns and, as to Sections 5(b), 10, and 11 the other indemnified parties specified therein. References to any of the Parties contained in this Agreement shall be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement or any Terms Agreement, express or implied, is intended to confer upon any other person any rights, remedies, obligations or liabilities under or by reason of this Agreement or any Terms Agreement, except as expressly provided in this Agreement or any Terms Agreement. Neither the Company, the Operating Partnership nor the Agent may assign its rights or obligations under this Agreement or any Terms Agreement without the prior written consent of the other party; *provided, however*, that Agent may assign its rights and obligations hereunder or under any Terms Agreement to an affiliate of Agent without obtaining the Company’s consent.

16. Adjustments for Stock Splits. The Parties acknowledge and agree that all share-related numbers contained in this Agreement and any Terms Agreement shall be adjusted to take into account any stock split, stock dividend or similar event effected with respect to the Common Stock.

17. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices and Terms Agreements issued pursuant hereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the Parties with regard to the subject matter hereof. Neither this Agreement nor any term hereof or any Terms Agreement may be amended except pursuant to a written instrument executed by the Company and Agent. In the event that any one or more of the terms or provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a

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court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such term or provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the Parties as reflected in this Agreement.

18. **GOVERNING LAW AND TIME; WAIVER OF JURY TRIAL.** THIS AGREEMENT AND ANY TERMS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS. SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME. THE COMPANY, THE OPERATING PARTNERSHIP AND AGENT EACH HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TERMS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

19. **CONSENT TO JURISDICTION.** EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS SITTING IN THE CITY OF NEW YORK, BOROUGH OF MANHATTAN, FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR ANY TERMS AGREEMENT OR IN CONNECTION WITH ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY, AND HEREBY IRREVOCABLY WAIVES, AND AGREES NOT TO ASSERT IN ANY SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY SUCH COURT, THAT SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM OR THAT THE VENUE OF SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER. EACH PARTY HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF PROCESS AND CONSENTS TO PROCESS BEING SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING BY MAILING A COPY THEREOF (CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT AND ANY TERMS AGREEMENT AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE GOOD AND SUFFICIENT SERVICE OF PROCESS AND NOTICE THEREOF. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT IN ANY WAY ANY RIGHT TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW.

20. **Absence of Fiduciary Relationship.** The Company and the Operating Partnership acknowledges and agree that:

(a) Agent is acting solely as agent in connection with the sale of the Shares in an Agency Transaction contemplated by this Agreement and the process leading to such

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transactions, and no fiduciary or advisory relationship between the Company, the Operating Partnership or any of its respective affiliates, stockholders (or other equity holders), creditors or employees or any other party, on the one hand, and Agent, on the other hand, has been or will be created in respect of any of the transactions contemplated by this Agreement or any Terms Agreement, irrespective of whether Agent has advised or is advising the Company and/or the Operating Partnership on other matters, and Agent has no obligation to the Company or the Operating Partnership with respect to the transactions contemplated by this Agreement or any Terms Agreement, except the obligations expressly set forth in this Agreement and any Terms Agreement;

(b) the Company and the Operating Partnership are capable of evaluating and understanding, and understand and accept, the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) Agent has not provided any legal, accounting, regulatory or tax advice with respect to the transactions contemplated by this Agreement or any Terms Agreement, and the Company and the Operating Partnership have consulted their own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate;

(d) the Company and the Operating Partnership are aware that Agent and its affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and the Operating Partnership, and Agent has no obligation to disclose such interests and transactions to the Company or the Operating Partnership by virtue of any fiduciary, advisory or agency relationship or otherwise; and

(e) the Company and the Operating Partnership waive, to the fullest extent permitted by law, any claims they may have against Agent for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that Agent shall have no liability (whether direct or indirect, in contract, tort or otherwise) to the Company and the Operating Partnership in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company or the Operating Partnership, including stockholders, partners, employees or creditors of the Company or the Operating Partnership.

21. Effect of Headings: Knowledge of the Company. The section and Exhibit headings herein are for convenience only and shall not affect the construction hereof. All references in this Agreement and any Terms Agreement to the “knowledge of the Company” or the “Company’s knowledge” or similar qualifiers shall mean the actual knowledge of the directors and officers of the Company, after due inquiry.

22. Recognition of the U.S. Special Resolution Regimes.

In the event that Agent is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from Agent of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would

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be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

In the event that Agent is a Covered Entity or a BHC Act Affiliate (as defined below) of Agent becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against Agent are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section 16, a “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). “Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

23. Counterparts. This Agreement and any Terms Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement or Terms Agreement by one party to the other may be made by facsimile or electronic transmission.

**[Signature Page Follows]**

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If the foregoing correctly sets forth the understanding between the Company, the Operating Partnership and Agent, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company, the Operating Partnership and Agent.

Very truly yours,

**NewLake Capital Partners, Inc.**

By: /s/ Lisa Meyer

Name: Lisa Meyer

Title: Chief Financial Officer, Treasurer and Secretary

**NLCP Operating Partnership, LP**

By: /s/ Lisa Meyer

Name: Lisa Meyer

Title: Chief Financial Officer, Treasurer and Secretary

**ACCEPTED as of the date first-above written:**

**Compass Point Research & Trading, LLC**

By: /s/ Christopher Nealon

Name: Christopher Nealon

Title: President and Chief Operating Officer

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**FORM OF PLACEMENT NOTICE**

From: [ ]  
Cc: [ ]  
To: [ ]  
Subject: Placement Notice

Gentlemen:

Pursuant to the terms and subject to the conditions contained in the Sales Agreement between NewLake Capital Partners, Inc., a Maryland corporation (the “**Company**”), and NLCP Operating Partnership, LP, a Delaware limited partnership and the Company’s operating partnership (the “**Operating Partnership**”) and Compass Point Research & Trading, LLC (“**Agent**”) dated June 10, 2024 (the “**Agreement**”), I hereby request on behalf of the Company that Agent sell up to [[ ] shares] [\$[ ] worth of shares] of the Company’s common stock, par value \$0.001 per share, subject to the Maximum Amount (the “**Shares**”), at market prices not lower than \$[ ] per share, during the time period beginning [month, day, time] and ending [month, day, time].

[The Company may include such other sales parameters as it deems appropriate, subject to the terms and conditions of the Agreement.]

The Company and the Operating Partnership represents and warrants that each representation, warranty, covenant and other agreement of the Company contained in the Agreement is true and correct on the date hereof, and that the Prospectus, including the documents incorporated by reference therein, and any applicable issuer free writing prospectus, as of the date hereof, do not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Terms used herein and not defined herein have the meanings ascribed to them in the Agreement.

**SCHEDULE 2**

**COMPENSATION**

Agent shall be paid compensation up to two percent (2%) of the gross proceeds from the sales of Shares pursuant to the terms of this Agreement.

SCHEDULE 2

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**SCHEDULE 3**

**Agent**

Burke Hayes  
Christopher Nealon

**NewLake Capital Partners, Inc.**

Anthony Coniglio  
Lisa Meyer

SCHEDULE 3

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**SIGNIFICANT SUBSIDIARIES**

NLCP TRS, LLC

NLCP 511 Industry PA, LLC

GA NA 3 (Mount Dora FL) LLC

GA NA 1 (Lincoln IL) LLC

SCHEDULE 4

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**OFFICER'S CERTIFICATE**

The undersigned, the duly qualified and appointed officer of NewLake Capital Partners, Inc., a Maryland corporation (the "**Company**"), and NLCP Operating Partnership, LP, a Delaware limited partnership and the Company's operating partnership (the "**Operating Partnership**"), does hereby certify in such capacity and on behalf of the Company and the Operating Partnership, pursuant to Section 7(m) of the Sales Agreement, dated June 10, 2024 (the "**Agreement**"), between the Company, the Operating Partnership and Compass Point Research & Trading, LLC, that:

- (i) the representations and warranties of the Company and the Operating Partnership in Section 6 of the Agreement (A) to the extent such representations and warranties are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect, such representations and warranties are true and correct on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, with the same force and effect as if expressly made on and as of the date hereof, and (B) to the extent such representations and warranties are not subject to any qualifications or exceptions, such representations and warranties are true and correct in all material respects as of the date hereof as if made on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, with the same force and effect as if expressly made on and as of the date hereof;
- (ii) the Company and the Operating Partnership have complied with all agreements and satisfied all conditions on its part to be performed or satisfied pursuant to the Agreement at or prior to the date hereof;
- (iii) as of the date hereof, (i) the Registration Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading, (ii) the Prospectus does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading and (iii) no event has occurred as a result of which it is necessary to amend or supplement the Registration Statement or the Prospectus in order to make the statements therein not untrue or misleading for clauses (i) and (ii) above, respectively, to be true and correct;
- (iv) there has been no material adverse change since the date as of which information is given in the Prospectus, as amended or supplemented;
- (v) the Company and/or the Operating Partnership do not possess any material non-public information;

- (vi) the aggregate offering price of the Shares that may be issued and sold pursuant to the Agreement and the maximum number or amount of Shares that may be sold pursuant to the Agreement have been duly authorized by the Company's board of directors or a duly authorized committee thereof; and
- (vii) no stop order suspending the effectiveness of the Registration Statement under the Securities Act of 1933, as amended, has been issued, no order preventing or suspending the use of the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to their knowledge, contemplated.

Terms used herein and not defined herein have the meanings ascribed to them in the Agreement.

By:\_\_\_  
Name:  
Title:

Date:\_\_\_

Exhibit 7(m)

June 10, 2024

NewLake Capital Partners, Inc.  
50 Locust Avenue, First Floor  
New Canaan, CT 06840

Re: Registration Statement on Form S-3 (File No. 333-267894)

Ladies and Gentlemen:

We have served as Maryland counsel to NewLake Capital Partners, Inc., a Maryland corporation (the “Company”), in connection with certain matters of Maryland law arising out of the issuance of shares of Common Stock, par value \$0.01 per share (the “Common Stock”), of the Company having an aggregate offering price of up to \$50,000,000 (the “Shares”), covered by the above-referenced Registration Statement, and all amendments thereto (collectively, the “Registration Statement”), filed by the Company with the United States Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”). The Shares are to be issued in an at-the-market public offering (the “Offering”) pursuant to an Equity Distribution Agreement, dated as of the date hereof (the “Distribution Agreement”), by and between the Company and Compass Point Research and Trading, LLC.

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (hereinafter collectively referred to as the “Documents”):

1. The Registration Statement;
  2. The Prospectus, dated October 14, 2022, as supplemented by a Prospectus Supplement, dated June 10, 2024 (the “Prospectus Supplement”), relating to the Offering filed with the Commission pursuant to Rule 424(b) of the General Rules and Regulations promulgated under the Securities Act;
  3. The charter of the Company (the “Charter”), certified by the State Department of Assessments and Taxation of Maryland (the “SDAT”);
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4. The Amended and Restated Bylaws of the Company, certified as of the date hereof by an officer of the Company;

5. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;

6. Resolutions (the "Resolutions") adopted by the Board of Directors of the Company (the "Board") relating to, among other matters, (a) the sale and issuance of the Shares, (b) the execution, delivery and performance by the Company of the Distribution Agreement and (c) the delegation to designated officers of the Company of the power to determine the number and price of the Shares and certain other matters in connection with the registration, sale and issuance of the Shares, subject to the Resolutions ("Officer Instructions"), certified as of the date hereof by an officer of the Company;

7. A certificate executed by an officer of the Company, dated as of the date hereof; and

8. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or another person, is legally competent to do so.

2. Each individual executing any of the Documents on behalf of a party (other than the Company) is duly authorized to do so.

3. Each of the parties (other than the Company) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such party's obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.

4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or

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written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.

5. The Shares will not be issued or transferred in violation of any restriction or limitation contained in Article Fifth of the Charter.

6. Upon the issuance of any of the Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the Charter.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

1. The Company is a corporation duly incorporated and validly existing under and by virtue of the laws of the State of Maryland and is in good standing with the SDAT.

2. The issuance of the Shares has been duly authorized and, when and to the extent issued against payment therefor in accordance with the Officer Instructions, the Distribution Agreement, the Registration Statement, the Prospectus Supplement and the Resolutions, the Shares will be validly issued, fully paid and nonassessable.

The foregoing opinion is limited to the laws of the State of Maryland and we do not express any opinion herein concerning federal law or the laws of any other jurisdiction. We express no opinion as to the applicability or effect of federal or state securities laws, including the securities laws of the State of Maryland, or as to federal or state laws regarding fraudulent transfers. To the extent that any matter as to which our opinion is expressed herein would be governed by the laws of any jurisdiction other than the State of Maryland, we do not express any opinion on such matter. The opinion expressed herein is subject to the effect of any judicial decision which may permit the introduction of parol evidence to modify the terms or the interpretation of agreements.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof.

This opinion is being furnished to you for submission to the Commission as an exhibit to the Company's Current Report on Form 8-K relating to the Offering (the "Current Report"), which is incorporated by reference in the Registration Statement. We hereby consent to the filing of this opinion as an exhibit to the Current Report and to the use of the name of our

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June 10, 2024

Page 4

firm therein. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act.

Very truly yours,  
/s/ Venable LLP