

**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

Date of Report (Date of earliest event reported): **April 30, 2021**

Arbor Realty Trust, Inc.

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

MARYLAND

(STATE OF INCORPORATION)

001-32136

(COMMISSION FILE NUMBER)

20-0057959

(IRS EMPLOYER ID. NUMBER)

333 Earle Ovington Boulevard, Suite 900

Uniondale, New York

(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

11553

(ZIP CODE)

(516) 506-4200

(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(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.01 per share	ABR	New York Stock Exchange
Preferred Stock, 8.25% Series A Cumulative Redeemable, par value \$0.01 per share	ABR-PA	New York Stock Exchange
Preferred Stock, 7.75% Series B Cumulative Redeemable, par value \$0.01 per share	ABR-PB	New York Stock Exchange
Preferred Stock, 8.50% Series C Cumulative Redeemable, par value \$0.01 per share	ABR-PC	New York Stock Exchange

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 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information included in Item 8.01 below is incorporated by reference into this Item 2.03.

Item 8.01 Other Events.

5.00% Senior Notes due 2026

On April 30, 2021, Arbor Realty Trust, Inc., a Maryland corporation (the “Company”), issued \$175.0 million aggregate principal amount of its 5.00% Senior Notes due 2026 (the “Notes”) under an indenture, dated as of April 30, 2021 (the “Indenture”), between the Company and UMB Bank, NA, as trustee. The Notes were issued in a private offering exempt from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”). The Notes were offered only to persons reasonably believed to be “qualified institutional buyers” under Rule 144A of the Securities Act or to institutional accredited investors under Rule 501(a)(1), (2), (3) or (7) under the Securities Act. The Notes have not been registered under the Securities Act or the securities laws of any other jurisdiction. Unless so registered, the Notes may not be offered or sold in the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws.

The Company intends to use the net proceeds from the offering to make investments relating to its business and for general corporate purposes.

Indenture

The Notes are senior unsecured obligations of the Company, bear interest at a rate equal to 5.00% per year, payable semi-annually in arrears on April 30th and October 30th of each year, beginning on October 30, 2021 and will mature on April 30, 2026, unless earlier repurchased or redeemed.

At any time prior to January 30, 2026, the Company will have the right to redeem the Notes at a redemption price equal to 100% of the aggregate principal amount of the Notes plus a “make-whole” premium, plus accrued and unpaid interest thereon to, but excluding, the redemption date. On or after January 30, 2026, the Company will have the right to redeem the Notes at a redemption price equal to 100% of the aggregate principal amount of the Notes, plus accrued and unpaid interest thereon to, but excluding, the redemption date.

If a change of control triggering event occurs, each holder of the Notes may require the Company to purchase all or a portion of such holder’s Notes at a price equal to 101% of their principal amount, plus accrued and unpaid interest thereon, if any, to, but excluding, the date of purchase.

The Indenture, among other things, contains covenants requiring the Company to maintain a minimum net asset value, unencumbered asset ratio and senior debt service coverage ratio, and will restrict the Company’s leverage and ability to transfer the Company’s assets substantially as an entirety or merge into or consolidate with any person. These covenants are subject to a number of important qualifications and limitations.

The Indenture also provides for customary events of default, including payment defaults, breaches of covenants following any applicable cure period, cross acceleration of certain debt and certain events relating to bankruptcy and insolvency. If an event of default relating to bankruptcy or insolvency occurs, all Notes then outstanding will automatically become due and payable immediately. If one or more other events of default occurs and continues beyond any applicable cure period, the Trustee or holders of not less than 25% in principal amount of the Notes may declare the principal amount of the Notes, and any accrued and unpaid interest thereon, to be due and payable immediately.

Registration Rights Agreement

In connection with the issuance of the Notes, the Company entered into a registration rights agreement with the several purchasers of the Notes, dated as of April 30, 2021 (the “Registration Rights Agreement”), pursuant to which the Company is required to use commercially reasonable efforts to, among other things, (i) file with the U.S. Securities and Exchange Commission, within 60 days of the issue date of the Notes, and cause to become effective, within 120 days of the issue date, a registration statement, on the appropriate form under the Securities Act, relating to an offer to exchange the Notes (the “Exchange Offer”) for a like aggregate principal amount of registered notes, which notes will be substantially identical to the Notes and entitled to the benefits of the Indenture; and (ii) consummate the Exchange Offer within 60 days after the effective date of the Exchange Offer registration statement.

If, among other things, the Exchange Offer registration statement is not declared effective within 120 days of the issue date or the Exchange Offer is not consummated within 60 days after the effective date of the Exchange Offer registration statement, the Company is required to use commercially reasonable efforts to (i) cause to be filed a shelf registration statement covering resales of the Notes; (ii) cause such shelf registration statement to become effective under the Securities Act; and (iii) keep the shelf registration statement effective until the earlier of one year following the issue date of the Notes and when all of the Notes registered thereunder have been sold pursuant to such shelf registration statement or cease to be Registrable Securities (as such term is defined in the Registration Rights Agreement).

If the Company fails to satisfy its registration obligations under the Registration Rights Agreement, the Company will be required to pay additional interest to the holders of the Notes as specified in the Registration Rights Agreement.

The foregoing summaries of the Indenture, the Notes and the Registration Rights Agreement in this Item 8.01 do not purport to be complete and are qualified in their entirety by reference to the full and complete texts of the Indenture, the Notes and the Form of Registration Rights Agreement, copies of which are attached as Exhibit 4.1, 4.2 and 10.1, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

On May 4, 2021, the Company announced the issuance of the Notes disclosed in Item 2.03 and 8.01 of this Current Report on Form 8-K. A copy of the press release issued is filed as Exhibit 99.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits*

Exhibit Number	Exhibit
4.1	Indenture, dated as of April 30, 2021, between Arbor Realty Trust, Inc. and UMB Bank, NA, as trustee
4.2	Form of 5.00% Senior Note due 2026 (included in Exhibit 4.1)
10.1	Form of Registration Rights Agreement relating to the 5.00% Senior Notes due 2026, dated as of April 30, 2021, among Arbor Realty Trust, Inc. and the several purchasers of the Notes party thereto
99.1	Press Release, dated May 4, 2021, entitled "Arbor Realty Trust, Inc. Announces Issuance of \$175 Million of Senior Unsecured Notes due 2026"
104	The cover page of this Current Report on Form 8-K, formatted in Inline XBRL

SIGNATURE

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

ARBOR REALTY TRUST, INC.

By: /s/ Paul Elenio

Name: Paul Elenio

Title: Chief Financial Officer

Date: May 4, 2021

ARBOR REALTY TRUST, INC.,
as Issuer

5.00% Senior Notes due 2026

Indenture

Dated as of April 30, 2021

UMB Bank, NA

as Trustee

**Reconciliation and tie between Trust Indenture Act
of 1939 and Indenture, dated as of April 30, 2021***

Trust Indenture Act Section		Indenture Section
§310	(a)(1)	608
	(a)(2)	608
	(a)(3)	612
	(a)(4)	608
	(a)(5)	N.A.
	(b)	605, 609
§311	(a)	605
	(b)	605
§312	(a)	701
	(b)	702
	(c)	702
§313	(a)	703
	(b)(1)	N.A.
	(b)(2)	703
	(c)	703
	(d)	703
§314	(a)	1006
	(b)	N.A.
	(c)(1)	N.A.
	(c)(2)	103
	(c)(3)	103
	(d)	N.A.
	(e)	103
	(f)	N.A.
§315	(a)	601
	(b)	602
	(c)	601
	(d)	601
	(e)	515
§317	(a)	512, 513
	(b)	508
§318	(a)	115

N.A. means Not Applicable

*This reconciliation and tie shall not, for any purpose, be deemed to be a part of this Indenture.

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THIS INDENTURE, dated as of April 30, 2021, is between Arbor Realty Trust, Inc., a Maryland corporation (the “Company”) and UMB Bank, NA, a national banking association organized under the laws of the United States, as trustee (the “Trustee”).

RECITALS

The Company has duly authorized the creation of its (i) 5.00% Senior Notes due 2026 to be issued on the date hereof (the “Initial Notes”), and (ii) 5.00% Senior Notes due 2026 if and when issued in exchange for Initial Notes in an Exchange Offer (as herein defined) in accordance with the Registration Rights Agreement dated as of the date hereof between the Company and the Purchasers party thereto, and to provide therefor the Company has duly authorized the execution and delivery of this Indenture.

All things necessary have been done to make the Notes (as defined herein), when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid and legally binding obligations of the Company and to make this Indenture a valid and legally binding agreement of the Company, in accordance with their and its terms.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of all Holders, as follows:

ARTICLE ONE DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 101. Rules of Construction and Incorporation by Reference of Trust Indenture Act. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Article One have the meanings assigned to them in this Article One, and words in the singular include the plural and words in the plural include the singular;
- (2) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (3) all references to Articles, Sections, Exhibits and Appendices shall be construed to refer to Articles and Sections of, and Exhibits and Appendices to, this Indenture;
- (4) “including” means including without limitation;
- (5) references to the date the Initial Notes were originally issued shall refer to the Issue Date;

(6) all references, in any context, to any interest or other amount payable on or with respect to the Notes shall be deemed to include any Additional Interest (as herein defined) pursuant to a Registration Rights Agreement (as defined herein); and

(7) the phrase “in writing” as used herein shall be deemed to include facsimile, pdf attachments and other electronic means of transmission.

Upon qualification under the TIA (as herein defined), this Indenture shall be subject to the mandatory provisions of the TIA which are incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

- (1) “Commission” means the SEC;
- (2) “indenture securities” means the Notes;
- (3) “indenture security holder” means a Holder;
- (4) “indenture to be qualified” means this Indenture;
- (5) “indenture trustee” or “institutional trustee” means the Trustee; and
- (6) “obligor” on the Notes means the Company and any successor obligor on the indenture securities.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by any rule or regulation of the SEC (as herein defined) have the meanings assigned to them by such definitions.

Section 102. Definitions.

“Act,” when used with respect to any Holder, has the meaning specified in Section 105 of this Indenture.

“*Additional Interest*” means all additional interest then owing on the Notes pursuant to a Registration Rights Agreement.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“*Agency Business*” means, the Company’s Agency Loan Origination and Servicing Business which originates, sells and services a range of multifamily finance products through government- sponsored enterprises, the Government National Mortgage Association, Federal Housing Authority, the U.S. Department of Housing and Urban Development and conduit/commercial mortgage- backed securities programs.

“Appendix” has the meaning specified in Section 201 of this Indenture.

“Applicable Procedures” has the meaning specified in the Appendix.

“Authenticating Agent” has the meaning specified in Section 613 of this Indenture.

“Blocked Person” means (a) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by OFAC, (b) a Person, entity, organization, country or regime that is blocked or a target of sanctions that have been imposed under U.S. Economic Sanctions Laws or (c) a Person that is an agent, department or instrumentality of, or is otherwise beneficially owned by, controlled by or acting on behalf of, directly or indirectly, any Person, entity, organization, country or regime described in clause (a) or (b).

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation;
- (2) with respect to a partnership, the board of directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

“Board Resolution” means, with respect to the Company, a duly adopted resolution of the Board of Directors of the Company or any committee thereof.

“Business Day” means each day that is not a Legal Holiday.

“Capitalized Lease Obligation” means the obligations under a lease that are required to be capitalized for financial reporting purposes in accordance with GAAP. The amount of a Capitalized Lease Obligation is the capitalized amount of such obligation as would be required to be reflected on the balance sheet prepared in accordance with GAAP of the applicable Person as of the applicable date.

“Certificated Notes” has the meaning specified in the Appendix.

“Change of Control” has the meaning specified in Section 1009.

“Change of Control Offer” has the meaning specified in Section 1009.

“Change of Control Payment Date” has the meaning specified in Section 1009.

“Change of Control Triggering Event” has the meaning specified in Section 1009.

“Company” means the Person named as the “Company” in the first paragraph of this Indenture, until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, “Company” shall mean such successor Person.

“Company Request” or “Company Order” means a written request or order signed in the name of the Company by any Officer, and delivered to the Trustee or Paying Agent, as applicable.

“Comparable Treasury Issue” means the United States Treasury security selected by the Independent Investment Banker as having an actual or interpolated maturity comparable to the remaining term of the Notes to be redeemed, determined as if the Notes matured on the Par Call Date (the “Remaining Life”), that would be utilized at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the Remaining Life of the Notes.

“Comparable Treasury Price” means, with respect to any Redemption Date for the Notes, (i) the arithmetic average of five Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest such Reference Treasury Dealer Quotations, or (ii) if the Company obtains fewer than five such Reference Treasury Dealer Quotations, the arithmetic average of all such quotations for such Redemption Date.

“Consolidated Unencumbered Assets” as of any date means all of the assets (excluding intangibles) of the Company and its Subsidiaries that are not subject to a Lien (other than a Permitted Lien) securing Debt, all on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP, plus equity in the Company and its Subsidiaries’ CLO securitizations that is not subject to a Lien (other than a Permitted Lien).

“Controlled Entity” means (a) any of the Subsidiaries of the Company and any of their or the Company’s respective Controlled Affiliates and (b) if the Company has a parent company, such parent company and its Controlled Affiliates.

“Corporate Trust Office” means the principal corporate trust office of the Trustee, at which at any particular time its corporate trust business relating to this Indenture shall be principally administered, which office at the date of execution of this Indenture is located at 5555 San Felipe, Suite 870, Houston, TX 77056, Attn: Corporate Trust and Escrow Services, except that solely with respect to presentation of the Notes for payment or for registration of transfer or exchange, such term shall mean 1010 Grand Blvd, Kansas City, MO 64106.

“corporation” includes, unless the context indicates otherwise, corporations, associations, partnerships, limited liability companies, companies and business trusts.

“Covenant Defeasance” has the meaning specified in Section 1303 of this Indenture.

“Debt” means, for any Person, (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of property to another Person subject to agreement, contingent or otherwise, to repurchase such property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of property or services, other than trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business so long as such trade accounts payable are payable within 90 days of the date the respective goods are delivered or the respective services are rendered; (c) Debt of others secured by a lien on the property of such Person, whether or not the respective Debt so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for account of such Person; (e) obligations of such Person under repurchase agreements, sale/buy-back agreements or like arrangements; (f) Debt of others guaranteed by such Person; (g) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (h) Recourse Debt of such Person; (i) Debt of general partnerships of which such Person is secondarily or contingently liable (other than by endorsement of instruments in the course of collection), whether by reason of any agreement to acquire such indebtedness to supply or advance sums or otherwise; (j) Capitalized Lease Obligations of such Person; (k) all net liabilities or obligations under any interest rate, interest rate swap, interest rate cap, interest rate floor, interest rate collar, or other hedging instrument or agreement; and (l) all obligations of such Person under Financing Leases.

“*Debt to Equity Ratio*” means, with respect to the Company on any date, the ratio of (i) (a) Total Liabilities, plus (b) letters of credit outstanding, minus (c) the TRUPs Indebtedness and any other Subordinated Debt, minus (d) indebtedness related to the Agency Business, minus (e) allowance for loss sharing obligations relating to the Agency Business, to (ii) Tangible Capital Base.

“*Default*” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“*Default Rate*” means that rate of interest per annum that is the greater of (a) 2.00% above the applicable interest rate on the Notes as calculated pursuant to Section 301 or (b) 2.00% over the rate of interest publicly announced by Citibank, N.A. in New York, New York as its “base” or “prime” rate.

“*Defaulted Interest*” has the meaning specified in Section 306(b) of this Indenture.

“*Depository*” means The Depository Trust Company, its nominees and their respective successors.

“*Egan-Jones*” means Egan-Jones Ratings Company and any successor to the credit rating business thereof.

“*Equity Interests*” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests or equivalents (however designated, including any instrument treated as equity for U.S. federal income tax purposes) in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

“*Event of Default*” has the meaning specified in Section 501 of this Indenture.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder from time to time in effect.

“*Exchange Notes*” means any Notes issued in exchange for any Initial Notes pursuant to a Registration Rights Agreement.

“*Exchange Offer*” means the Exchange Offer as defined in the applicable Registration Rights Agreement.

“*Exchange Offer Registration Statement*” has the meaning specified in the applicable Registration Rights Agreement.

“*Financing Lease*” means any lease of property, real or personal, the obligations of the lessee in respect of which are required in accordance with GAAP to be capitalized on a balance sheet of the lessee.

“*GAAP*” means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and in statements and pronouncements of the Financial Accounting Standards Board, or in opinions, statements or pronouncements of any other entity approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“*Global Notes*” has the meaning specified in the Appendix.

“*Government Obligations*” means securities that are either:

(a) direct obligations of the United States for the timely payment of which its full faith and credit is pledged; or

(b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States,

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

“*guarantee*” means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any guarantee, the indebtedness or other obligations that are the subject of such guarantee shall be assumed to be direct obligations of such obligor.

“*Holder*” means the Person in whose name a Note is registered on the books of the Note Registrar.

“*Indenture*” means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this Indenture and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be part of and govern this instrument and any such supplemental indenture, respectively.

“*Independent Investment Banker*” means, with respect to any Redemption Date for the Notes, one of the Reference Treasury Dealers selected by the Company or, if such firms or any such successors, as the case may be, are unwilling or unable to select the Comparable Treasury Issue, an independent investment banking institution of national standing selected by the Company.

“*Initial Notes*” has the meaning stated in the first recital of this Indenture.

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

“*Interest Payment Date*” means April 30 and October 30, commencing on October 30, 2021.

“*Issue Date*” means April 30, 2021.

“*Legal Defeasance*” has the meaning specified in Section 1302 of this Indenture.

“*Legal Holiday*” means a Saturday, a Sunday or a day on which the Corporate Trust Office, the office of the Paying Agent or banking institutions in New York City are authorized or required by law, regulation or executive order to close.

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

“*Material*” means material in relation to the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole.

“*Material Credit Facility*” means, as to the Company,

(a) the Indenture dated as of March 13, 2018 between the Company and U.S. Bank National Association, as trustee, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(b) the Indenture dated as of July 3, 2018 between the Company and U.S. Bank National Association, as trustee, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(c) the Indenture dated as of July 20, 2018 between the Company and U.S. Bank National Association, as trustee, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(d) the Note Purchase Agreement dated as of March 22, 2019 between the Company and each of the purchasers party thereto, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(e) the Note Purchase Agreement dated as of October 15, 2019 between the Company and each of the purchasers party thereto, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(f) the Indenture dated as of November 12, 2019 between the Company and U.S. Bank National Association, as trustee, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(g) the Note Purchase Agreement dated as of March 4, 2020 between the Company and each of the purchasers party thereto, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(h) the Amended and Restated Note Purchase Agreement dated as of June 25, 2020 between the Company and each of the purchasers party thereto, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof;

(i) with respect to Section 1016 only, any other agreement(s) creating or evidencing indebtedness for borrowed money entered into on or after the date of Closing by the Company, or in respect of which the Company is an obligor or otherwise provides a guarantee or other credit support (“*Credit Facility*”), in a principal amount outstanding or available for borrowing equal to or greater than \$50,000,000 (or the equivalent of such amount in the relevant currency of payment, determined as of the date of the closing of such facility based on the exchange rate of such other currency); and if no Credit Facility or Credit Facilities equal or exceed such amounts, then the largest Credit Facility shall be deemed to be a Material Credit Facility.

“*Maturity*,” when used with respect to any Note, means the date on which the principal of such Note or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption or otherwise.

“*Net Asset Value*” means, as of the date of determination, the total value of the assets less the total value of the liabilities shown on the Company’s consolidated statement of assets, liabilities and equity on such date, as calculated and determined in accordance with GAAP.

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

“*Net Equity Capital Activity*” means the aggregate Net Cash Proceeds from the sale by the Company of its Equity Interests at any time after the date of this Indenture less (i) the aggregate amount paid by the Company after the date of this Indenture to repurchase its Equity Interests and (ii) the aggregate amount of cash distributions made by the Company to the holders of its Equity Interests at any time after the date of this Indenture.

“*Non-IG Rating*” has the meaning specified in Section 301.

“*Note Register*” and “*Note Registrar*” have the respective meanings specified in Section 304.

“*Notes*” means any 5.00% Senior Notes due 2026 of the Company authenticated and delivered under this Indenture. The Initial Notes and any Exchange Notes issued in exchange for the Initial Notes shall be treated as a single series for all purposes of this Indenture, including waivers, amendments, redemptions and offers to purchase, and shall vote and consent together as one class on all matters with respect to the Notes (except that any series of Notes that is not fungible with the Initial Notes for U.S. Federal income tax purposes shall be treated for purposes of provisions of this Indenture relating to transfer and exchange as a separate class that does not trade fungibly with Notes that have differing treatment under U.S. Federal income tax law and shall be assigned a different CUSIP or other identification number), and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Exchange Notes issued in exchange for the Initial Notes.

“*NRSRO*” has the meaning specified in Section 301.

“*OFAC*” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“*OFAC Sanctions Program*” means any economic or trade sanction that OFAC is responsible for administering and enforcing. A list of OFAC Sanctions Programs may be found at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.

“*Officer*” means any of the Chief Executive Officer, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer, the Secretary and the General Counsel of the Company.

“*Officer’s Certificate*” means a certificate signed on behalf of the Company by an Officer of the Company that meets the requirements set forth in this Indenture and the TIA.

“*Operating Cash Flow*” means, for any period of determination, with respect to the Company and its Subsidiaries, on a consolidated basis, net cash provided by operating activities, exclusive of the effects from changes in operating assets and liabilities, plus cash paid for income taxes and interest payments, determined in accordance with GAAP applied in a manner consistent with the Company’s most recent audited financial statements.

“*Opinion of Counsel*” means a written opinion from legal counsel. The counsel may be an employee of or counsel to the Company. Opinions of Counsel required to be delivered under this Indenture may have qualifications customary for opinions of the type required and counsel delivering such Opinions of Counsel may rely on certificates of the Company or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact, including that various covenants have been complied with.

“*Outstanding*,” when used with respect to Notes, means, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

- (1) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (2) Notes, or portions thereof, for whose payment or redemption funds in the necessary amount have been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Notes; provided that, if such Notes are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;
- (3) Notes, except to the extent provided in Sections 1302 and 1303, with respect to which the Company has effected Legal Defeasance or Covenant Defeasance as provided in Article Thirteen; and
- (4) Notes which have been paid pursuant to this Indenture or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to Section 305 of this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a Protected Purchaser in whose hands the Notes are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Notes have given any request, demand, authorization, direction, consent, notice or waiver hereunder, and for the purpose of making the calculations required by TIA Section 316, Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded.

“*Par Call Date*” means January 30, 2026.

“*Paying Agent*” means any Person (including the Company if acting as Paying Agent) authorized by the Company to pay the principal of (and premium, if any) or interest on, or any Redemption Price of, any Notes on behalf of the Company. The initial Paying Agent is the Trustee.

“*Permitted Liens*” means:

- (1) Liens securing the Company’s obligations under the Notes;
- (2) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings, provided any reserve or other appropriate provision as is required by GAAP has been made therefor; and
- (3) Liens of a depository institution or broker-dealer arising solely by virtue of any contractual, statutory or common law provisions relating to broker’s Liens, banker’s Liens, rights of set-off or similar rights and remedies as to deposit or brokerage accounts or other funds maintained with such depository institution or broker-dealer.

“*Person*” means any individual, corporation, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“*Place of Payment*,” with respect to any Note, means the place or places where the principal of, or any premium or interest on, such Note are payable as provided in or pursuant to this Indenture or such Note.

“*Predecessor Note*” of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 305 in exchange for a mutilated Note or in lieu of a lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note.

“*Primary Treasury Dealer*” means a primary U.S. government securities dealer in the United States.

“*Protected Purchaser*” has the meaning specified in Section 305 of this Indenture.

“*Qualifying Trustee*” has the meaning specified in Section 1305 of this Indenture.

“*Recourse Debt*” means, for any Person on any date, without duplication, the indebtedness of such Person (and its consolidated Subsidiaries) for which such Person (and its consolidated Subsidiaries) is directly responsible or liable as obligor or guarantor (excluding obligations arising by reason of customary recourse carve-outs under a non-recourse instrument, including, but not limited to, fraud, misappropriation and environmental indemnities).

“*Redemption Date*,” when used with respect to any Note to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Indenture.

“*Redemption Price*,” when used with respect to any Note to be redeemed, means the price at which such Note is to be redeemed pursuant to this Indenture which shall include any applicable premium.

“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any Redemption Date, the arithmetic average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company (and provided to the Trustee) by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

“*Reference Treasury Dealers*” means, with respect to any Redemption Date for the Notes, five Primary Treasury Dealers selected by the Company; provided, however, that if any of the foregoing ceases to be a Primary Treasury Dealer, the Company shall substitute therefor another Primary Treasury Dealer selected by the Company.

“*Registration Rights Agreement*” has the meaning specified in the Appendix.

“*Regular Record Date*” has the meaning specified in Section 301 of this Indenture.

“*Responsible Officer*,” means, (a) when used with respect to the Company or any of its Subsidiaries, any Senior Financial Officer and any other Officer with responsibility for the administration of the relevant portion of this Indenture; and (b) when used with respect to the Trustee, any officer of the Trustee assigned by the Trustee to administer this Indenture, and also means, with respect to a particular corporate trust matter relating to this Indenture, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject, and who in each case shall have direct responsibility for the administration of this Indenture.

“*SEC*” means the Securities and Exchange Commission.

“*Securities Act*” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder from time to time in effect.

“*Senior Debt Service*” means, for the Testing Period, the sum of: (a) the interest paid in cash or required to be paid in cash by the Company and its Subsidiaries, on a consolidated basis, for the Testing Period with respect to all Debt, together with all fees and expenses paid on account of or with respect thereto, minus the interest paid in cash or required to be paid in cash by the Company and its Subsidiaries, on a consolidated basis, for the Testing Period with respect to all Subordinated Debt together with all fees and expenses paid on account of or with respect thereto, in each case, determined in accordance with GAAP; plus (b) regularly scheduled principal amortization payments made or required to be made on account of Debt for the Testing Period (exclusive of pay-offs or pay-downs on account of such Debt), in each case determined in accordance with GAAP.

“*Senior Debt Service Coverage Ratio*” means, with respect to the Company, at any date of determination, the ratio of Operating Cash Flow during the Testing Period to Senior Debt Service for the Testing Period.

“*Senior Financial Officer*” means the Chief Financial Officer, principal accounting officer, treasurer or comptroller of the Company or any of its Subsidiaries.

“*Shelf Registration Statement*” has the meaning specified in the applicable Registration Rights Agreement.

“*Significant Subsidiary*” means, with respect to any Person, a Subsidiary of such Person that would constitute a “significant subsidiary” as such term is defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as in effect on the original date of issuance of the Notes.

“*Single-A Rating*” has the meaning specified in Section 301.

“*Six-Month Interest Period*” has the meaning specified in Section 301.

“*Special Record Date*” for the payment of any Defaulted Interest means a date fixed by the Company pursuant to Section 306.

“*Stated Maturity*” means, with respect to any security, the date specified in the agreement governing or certificate relating to such indebtedness as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but not including any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

“*Subordinated Debt*” means all Debt of the Company and its Subsidiaries that is effectively subordinated in right of payment to the Notes.

“*Subsidiary*” or “*Subsidiaries*” means, as to any Person, a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Company.

“*Subsidiary Guarantor*” means each Subsidiary that has executed and delivered a Subsidiary Guaranty. On the Issue Date, no Subsidiaries of the Company are Subsidiary Guarantors.

“*Subsidiary Guaranty*” means the guarantee by each Subsidiary Guarantor of the obligations of the Company under this Indenture and the Notes.

“*Tangible Capital Base*” means, with respect to the Company on any date, Total Assets less Total Liabilities plus the TRUPs Indebtedness plus any other Subordinated Debt.

“*Testing Period*” means, with respect to the Company, at any date of determination, the four consecutive fiscal quarters of the Company most recently ended immediately prior to such determination date.

“*Total Assets*” means, with respect to the Company on any date, all amounts that would be included under total assets on a balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP less intangible assets at such date, determined in accordance with GAAP.

“*Total Liabilities*” means, with respect to the Company on any date, all amounts that would be included under total liabilities on a balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP.

“*Treasury Rate*” means, with respect to any Redemption Date for the Notes, (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15 (519)” or any successor publication which is published weekly by the Federal Reserve and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after the Par Call Date, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue will be determined and the Treasury Rate will be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month) or (2) if the release referred to in clause (1) (or any successor release) is not published during the week preceding the calculation date or does not contain the yields referred to above, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date. The Company shall calculate the Treasury Rate on the third Business Day preceding the Redemption Date.

“*Triple-B Rating*” has the meaning specified in Section 301.

“*TRUPs Indebtedness*” means, with respect to the Company, as of any date, all amounts that would be included under junior subordinated notes on the balance sheet of the Company and its consolidated Subsidiaries at such date, determined on a consolidated basis in accordance with GAAP, consistent with the Company’s past practices.

“*Trust Indenture Act*” or “*TIA*” means the Trust Indenture Act of 1939 as in force at the date as of which this Indenture was executed, except as provided in Section 905.

“*Trustee*” means UMB Bank, NA, until a successor replaces it and, thereafter, means the successor.

“*Uniform Commercial Code*” means the New York Uniform Commercial Code as in effect from time to time.

“*U.S. Economic Sanctions Laws*” means those laws, executive orders, enabling legislation or regulations administered and enforced by the United States pursuant to which economic sanctions have been imposed on any Person, entity, organization, country or regime, including the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Iran Sanctions Act, the Sudan Accountability and Divestment Act and any other OFAC Sanctions Program.

“*Voting Stock*,” as applied to stock of any Person, means shares, interests, participations or other equivalents in the equity interest (however designated) in such Person having ordinary voting power for the election of, or to appoint or to approve the appointment of the directors (or the equivalent) of such Person, other than shares, interests, participations or other equivalents having such power only by reason of the occurrence of a contingency.

Section 103. Compliance Certificates and Opinions. Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required under the TIA. Each such certificate or opinion shall be given in the form of an Officer’s Certificate, if to be given by an Officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall in each case comply with the requirements of the TIA and any other requirements set forth in this Indenture.

Every Officer’s Certificate or Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Section 1006(a) of this Indenture or Section 314(a)(4) of the TIA) shall include:

- (1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of each such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Section 104. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer or Officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 105. Acts of Holders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by (i) one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing or (ii) in the case of Notes represented by a Global Note, by any electronic transmission or other message, whether or not in written format, that complies with the Depository's Applicable Procedures; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or the certification of such electronic transmissions or other messages, as the case may be, is delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments or such electronic transmissions or other messages (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments or sending such electronic transmissions or other messages. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof, or in any other manner which is reasonably satisfactory to the Trustee. Where such execution is by a signer acting in a capacity other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

The principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. Unless otherwise specified, if not set by the Company prior to the first solicitation from Holders of such action, such record date shall be the later of 30 days prior to the first solicitation of such action or the date of the most recent list of Holders furnished to the Trustee prior to such solicitation. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of such record date. Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this paragraph shall have the same effect as if given or taken by separate Holders of each such different part.

Without limiting the generality of the foregoing, a Holder, including the Depository that is the Holder of a Global Note, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other Act provided in this Indenture to be made, given or taken by Holders, and the Depository that is the Holder of a Global Note may provide its proxy or proxies to the beneficial owners of interests in any such Global Note through such Depository's standing instructions and customary practices.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by the Depository entitled under the procedures of such Depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other Act provided in this Indenture to be made, given or taken by Holders.

Section 106. Notices, Etc. to Trustee and Company. Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, emailed, furnished or filed in writing to or with the Trustee at the Corporate Trust Office, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and sent, first-class postage prepaid, or delivered by recognized overnight courier, to the Company addressed to it at Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York; Attention Chief Financial Officer, or at any other address previously furnished in writing to the Trustee by the Company.

The Company or the Trustee by written notice to the other may designate additional or different addresses for subsequent notices or communications.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, as may be amended from time to time to reflect additions or deletions from the listing if the Company elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 107. Notice to Holders; Waiver. Where this Indenture provides for notice of any event to Holders by the Company or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent, first-class postage prepaid, to each Holder affected by such event, at its address as it appears in the Note Register, within the time prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so sent, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Notices given by publication shall be deemed given on the first date on which publication is made; notices given by first-class mail, postage prepaid, shall be deemed given five calendar days after mailing; and notices given electronically shall be deemed given when sent.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Notwithstanding any other provision of this Indenture or any Note, but subject to the requirements of the TIA, where this Indenture or any Note provides for notice of any event (including any notice of redemption) to any Holder of a Global Note or beneficial owner of an interest therein (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depository for such Global Note (or its designee) according to the Applicable Procedures of the Depository.

Section 108. Effect of Headings and Table of Contents. The Article and Section headings herein, the Table of Contents and the reconciliation and tie between the TIA and this Indenture are for convenience of reference only, are not intended to be considered a part hereof and shall in no way affect the construction of, or modify or restrict, any of the terms or provisions hereof.

Section 109. Successors and Assigns. All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 110. Separability Clause. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 111. Benefits of Indenture. Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Note Registrar and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 112. Governing Law; Jury Trial Waiver. This Indenture and the Notes shall be governed by and construed in accordance with the laws of the State of New York. When qualified under the TIA, this Indenture shall be subject to the provisions of the Trust Indenture Act that are required to be part of any indenture qualified under such act and shall, to the extent applicable, be governed by such provisions. The Company agrees that any suit, action or proceeding against the Company brought by any Holder or the Trustee arising out of or based upon this Indenture or the Notes may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. The Company irrevocably waives, to the fullest extent permitted by law, any objection to any suit, action or proceeding that may be brought in connection with this Indenture or the Notes, including such actions, suits or proceedings relating to securities laws of the United States of America or any state thereof, in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum. The Company agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company, as the case may be, and may be enforced in any court to the jurisdiction of which the Company, as the case may be, is subject by a suit upon such judgment.

EACH OF THE COMPANY, THE SUBSIDIARY GUARANTORS, IF ANY, THE HOLDERS AND THE TRUSTEE 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 INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 113. Legal Holidays. In any case where any Interest Payment Date, Redemption Date, Change of Control Payment Date or Stated Maturity or other Maturity of any Note shall be a Legal Holiday, then (notwithstanding any other provision of this Indenture or of the Notes) payment of principal (or premium, if any) or interest need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Change of Control Payment Date or at the Stated Maturity or other Maturity; provided that no interest shall accrue for purposes of such payment for the period from and after such Interest Payment Date, Redemption Date, Change of Control Payment Date, Stated Maturity or other Maturity, as the case may be.

Section 114. No Personal Liability of Directors, Officers, Employees and Stockholders. No past, present or future director, officer, manager, employee, incorporator or equity holder of the Company shall have any liability for any obligations of the Company under the Notes, this Indenture, or for any claim based on, in respect of, or by reason of such obligations or their creation or by reason of his or her status as such director, officer, manager, employee, incorporator or equity holder. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 115. Trust Indenture Act Controls. Upon qualification of this Indenture under the TIA, if any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the provision required by the TIA shall control. If any provision of this Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

Section 116. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be original, but such counterparts shall together constitute but one and the same instrument. One signed copy is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile, pdf transmission or other electronic means shall constitute effective execution and delivery of this Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or pdf transmission or other electronic means shall be deemed to be their original signatures for all purposes.

Section 117. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services.

Section 118. U.S.A. Patriot Act. The Company acknowledges that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Company agrees that it will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

ARTICLE TWO
NOTE FORMS

Section 201. Form and Dating. Provisions relating to the Initial Notes and the Exchange Notes are set forth in Appendix A attached hereto (the "Appendix"), which is hereby incorporated in, and expressly made part of, this Indenture. The Initial Notes issued in a transaction exempt from the registration requirements of the Securities Act and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to Appendix A, which is hereby incorporated in, and expressly made a part of, this Indenture. The Exchange Notes issued in a transaction registered under the Securities Act and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 4 to Appendix A, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form reasonably acceptable to the Company). Each Note shall be dated the date of its authentication. The respective terms of the Notes set forth in Appendix A are part of the terms of this Indenture.

Section 202. Execution, Authentication, Delivery and Dating. The Notes shall be executed on behalf of the Company by any Officer. The signature of an Officer on the Notes may be manual or via facsimile, pdf transmission or other electronic means of the present or any future such authorized Officer and may be imprinted or otherwise reproduced on the Notes.

Notes bearing the signature of an individual who was at any time a proper Officer of the Company shall bind the Company, notwithstanding that such individual ceased to hold such office prior to the authentication and delivery of such Notes or did not hold such office at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes.

On the Issue Date, the Company shall deliver the Initial Notes executed by the Company in the aggregate principal amount of \$175,000,000 to the Trustee for authentication, together with a Company Order directing the Trustee to authenticate the Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Initial Notes.

Upon receipt of a Company Order, the Trustee shall authenticate for original issue Exchange Notes in an aggregate principal amount not to exceed \$175,000,000; provided that such Exchange Notes shall be issuable only upon the valid surrender for cancellation of Initial Notes of a like aggregate principal amount in accordance with an Exchange Offer pursuant to a Registration Rights Agreement and a Company Order for the authentication and delivery of such Exchange Notes and certifying that all conditions precedent to the issuance of such Exchange Notes are complied with. In each case, the Trustee shall receive a Company Order and an Opinion of Counsel of the Company that it may reasonably require in connection with such authentication of the Notes. Such Company Order shall specify the amount of Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

Each Note shall be dated the date of its authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a certificate of authentication substantially in the form provided for in Exhibits 1 and 4 to Appendix A, duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture.

In case the Company, pursuant to Article Eight of this Indenture, shall be consolidated or merged with or into any other Person or shall sell, assign, transfer, lease or otherwise convey all or substantially all its properties and assets to any Person, and the successor Person resulting from such consolidation, or surviving such merger, or into which the Company shall have been merged, or the Person which shall have received a sale, assignment, transfer, lease or other conveyance as aforesaid, shall have expressly assumed the obligations of the Company pursuant to Article Eight of this Indenture, any of the Notes authenticated or delivered prior to such consolidation, merger, sale, assignment, transfer, lease or other conveyance may, from time to time, at the request of the successor Person, be exchanged for other Notes executed in the name of the successor Person with such changes in phraseology and form as may be appropriate, but otherwise in substance of like tenor as the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Company Request of the successor Person, shall authenticate and deliver Notes as specified in such request for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a successor Person pursuant to this Section in exchange or substitution for or upon registration of transfer of any Notes, such successor Person, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

ARTICLE THREE THE NOTES

Section 301. Title and Terms. The aggregate principal amount of Notes which may be authenticated and issued under this Indenture is limited to \$175,000,000.

The Notes shall be known and designated as the “5.00% Senior Notes due 2026” of the Company. The Stated Maturity of the Notes shall be April 30, 2026, and the Notes shall bear interest at the rate set forth below from April 30, 2021, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable on October 30, 2021 and semi-annually thereafter on April 30 and October 30 in each year and at said Stated Maturity, until the principal thereof is paid or duly provided for and to the Person in whose name the Note (or any Predecessor Note) is registered at the close of business on the April 15 and October 15 immediately preceding such Interest Payment Date (each, a “*Regular Record Date*”).

The initial annual interest rate of 5.00% per annum is subject to adjustment from time to time based on changes to the ratings of the Notes by one or more “nationally recognized statistical rating organizations” within the meaning of Section 3(a)(62) of the Exchange Act (each, an “*NRSRO*”) and to the extent permitted by law, interest shall accrue (a) on any overdue payment of interest and (b) during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any premium (whether such premium is due and payable pursuant to Section 501 or Section 1101), at a rate per annum from time to time equal to the Default Rate, payable semi-annually as aforesaid (or, at the option of the registered Holder hereof, on demand).

The annual interest rate on the Notes will increase by 0.25% beginning on the first day of any Six-Month Interest Period (as defined below) if as of such day the Notes have a Triple-B Rating (as defined below), and likewise it will increase by 0.50% in excess of the initial rate beginning on the first day of any Six-Month Interest Period if as of such day the Notes have either a Non-IG Rating (as defined below) or no rating from any NRSRO. In the event that the annual interest rate on the Notes increases due to one or more downgrades, the rate will revert to the initial interest rate beginning on the first day of any Six-Month Interest Period if as of such day the Notes have a Single-A Rating (as defined below), and it will revert to 0.25% over the initial interest rate beginning on the first day of any Six-Month Interest Period if as of such day the Notes have been upgraded from a Non-IG Rating to a Triple-B Rating.

The Company will notify the Trustee and Depository in writing within five Business Days of any change in the ratings of the Notes and any resulting change in annual interest rate and the effective dates thereof, and in no event will the Trustee be responsible for monitoring such changes. Further, in no circumstances will the annual interest rate exceed the initial rate by more than 0.50% due to changes in ratings of the Notes, and in no event will it ever be less than the initial rate.

For purposes of this Indenture, the following terms are defined thus:

“*Six-Month Interest Period*” means the period beginning on each Interest Payment Date for the Notes and ending on the day immediately preceding the commencement of the next following Interest Payment Date for the Notes. The initial Six-Month Interest Period will begin on the first Interest Payment Date for the Notes.

A “*Triple-B Rating*” will occur if as of the last day of the then current Six-Month Interest Period:

- (1) assuming the Notes are rated by only one NRSRO, the then most recent rating from such NRSRO is no lower than a BBB- and no higher than a BBB+;
- (2) assuming the Notes are rated by only two NRSROs, the then lower of the most recent ratings from such NRSROs is no lower than a BBB- and no higher than a BBB+; or
- (3) assuming the Notes are rated by three or more NRSROs, the then second lowest of the most recent ratings from such NRSROs is no lower than a BBB- and no higher than a BBB+.

A “*Non-IG Rating*” will occur if as of the last day of the then current Six-Month Interest Period:

- (1) assuming the Notes are rated by only one NRSRO, the then most recent rating from such NRSRO is a BB+ or lower;

(2) assuming the Notes are rated by only two NRSROs, the then lower of the most recent ratings from such NRSROs is a BB+ or lower; or

(3) assuming the Notes are rated by three or more NRSROs, the then second lowest of the most recent ratings from such NRSROs is a BB+ or lower.

A “*Single-A Rating*” will occur if as of the last day of the then current Six-Month Interest Period:

(1) assuming the Notes are rated by only one NRSRO, the then most recent rating from such NRSRO is at least an A-;

(2) assuming the Notes are rated by only two NRSROs, the then lower of the most recent ratings from such NRSROs is at least an A-; or

(3) assuming the Notes are rated by three or more NRSROs, the then second lowest of the most recent ratings from such NRSROs is at least an A-.

The ratings categories referred to in the preceding definitions are those used by Egan-Jones but are deemed to refer also to the equivalent ratings of any other NRSRO.

The Company will maintain a rating of the Notes by at least one NRSRO at all times while the Notes are Outstanding.

The principal of (and premium, if any), and interest on the Notes shall be payable at the office or agency of the Company maintained for such purpose or, at the option of the Company, payment of interest may be made by check sent to the Holders at their respective addresses set forth in the Note Register; provided that all payments of principal, premium, if any, and interest with respect to Notes represented by one or more permanent Global Notes registered in the name of or held by the Depository or its nominee shall be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof, and all payments of principal, premium, if any, and interest with respect to one or more Certificated Notes at Stated Maturity shall be made against presentation of such Certificated Note at the office or agency of the Company maintained for such purpose.

Section 302. Denominations. The Notes shall be issuable only in registered form without coupons and only in minimum denominations of \$1,000 and any integral multiple of \$1,000 in excess thereof.

Section 303. Temporary Notes. Pending the preparation of definitive Notes, the Company may execute, and upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Notes which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officer executing such Notes may determine, as conclusively evidenced by their execution of such Notes.

If temporary Notes are issued, the Company shall cause definitive Notes to be prepared without unreasonable delay. After the preparation of definitive Notes, the temporary Notes shall be exchangeable for definitive Notes upon surrender of the temporary Notes at the office or agency of the Company designated for such purpose pursuant to Section 1002 without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute and upon receipt of a Company Order the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 304. Note Registrar; Paying Agent; Registration of Transfer and Exchange. The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes referred to as the “*Note Register*”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. The Note Register shall be in written form or any other form capable of being converted into written form within a reasonable time. At all reasonable times, the Note Register shall be open to inspection by the Trustee. The Trustee is hereby initially appointed as note registrar (the “*Note Registrar*”) for the purpose of registering Notes and transfers of Notes as herein provided. The Trustee is hereby initially appointed to act as the Paying Agent and to act as custodian with respect to the Global Notes.

Upon surrender for registration of transfer of any Note at the office or agency of the Company designated pursuant to Section 1002, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations or a like aggregate principal amount.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and upon receipt of a Company Order the Trustee shall authenticate and deliver, the Notes which the Holder making the exchange is entitled to receive; provided that the Company shall not execute a Note or submit any such Company Order to the Trustee in connection with an exchange of the Initial Notes for Exchange Notes until an Exchange Offer Registration Statement shall have been declared effective by the SEC. After the Exchange Offer Registration Statement has been declared effective by the SEC, the Company shall submit a Company Order to the Trustee in accordance with this paragraph, and the Initial Notes to be exchanged for the Exchange Notes shall be cancelled by the Trustee.

All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Note Registrar) be duly endorsed, or be accompanied by written instruments of transfer, in form satisfactory to the Company and the Note Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange or redemption of Notes, but the Company may require payment of a sum sufficient to cover any transfer tax or other similar governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Sections 202, 303, 906 or 1110 not involving any transfer.

Section 305. Mutilated, Destroyed, Lost and Stolen Notes. If (1) any mutilated Note is surrendered to the Trustee, or (2) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, and there is delivered to the Company and the Trustee such security or indemnity as may be required to protect the Company, the Trustee and any Authenticating Agent or other agent of the Company or the Trustee from any loss that any of them may suffer if a Note is replaced, then, in the absence of notice to the Company or the Trustee that such Note has been acquired by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code) (a "*Protected Purchaser*"), the Company shall execute and upon its receipt of a Company Order the Trustee shall authenticate and deliver, in exchange for any such mutilated Note or in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section, the Company may require the payment of a sum sufficient to cover any transfer tax or other similar governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Company and its counsel and the fees and expenses of the Trustee and its counsel) in replacing a Note.

Every new Note issued pursuant to this Section in lieu of any mutilated, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section 306. Payment of Interest; Interest Rights Preserved.

(a) Interest on any Note which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose pursuant to Section 1002; provided, however, that, subject to Section 301 hereof, each installment of interest may at the Company's option be paid by (1) sending a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 307, to the address of such Person as it appears in the Note Register or (2) transfer to an account located in the United States maintained by the payee.

(b) Any interest on any Note which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the Holder on the Regular Record Date by virtue of having been such Holder, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate borne by the Notes (such defaulted interest and interest thereon herein collectively called “*Defaulted Interest*”) may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Company shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such Special Record Date, and cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given in the manner provided for in Section 107, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so given, such Defaulted Interest shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to The Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions of this Section, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 307. Persons Deemed Owners. Prior to the due presentment of a Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name such Note is registered as the owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and (subject to Sections 304 and 306) interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and none of the Company, the Trustee or any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 308. Cancellation. All Notes surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Notes previously authenticated hereunder which the Company has not issued and sold, and all Notes so delivered shall be promptly cancelled by the Trustee. If the Company shall so acquire any of the Notes, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation. No Notes shall be authenticated in lieu of or in exchange for any Notes cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Notes held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures (subject to the record retention requirements of the Exchange Act). Evidence of the cancellation of such Notes shall be delivered to the Company by the Trustee upon the Company's Request. The Trustee shall maintain a record of all cancelled Notes. The Trustee shall provide the Company a list of all Notes that have been cancelled from time to time as requested by the Company.

Section 309. Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

Section 310. Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer. When a Note is presented to the Note Registrar or a co-registrar with a request to register a transfer, the Note Registrar shall register the transfer as requested if the requirements of this Indenture and Section 8-401(a) of the Uniform Commercial Code are met. When Notes are presented to the Note Registrar or a co-registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Note Registrar shall make the exchange as requested if the same requirements are met.

The Company shall not be required, and without the prior written consent of the Company, the Note Registrar shall not be required, to register the transfer of or exchange of any Note (i) during a period beginning at the opening of business 15 days before provision of a notice of redemption of Notes and ending at the close of business on the day of such provision, (ii) selected for redemption in whole or in part and (iii) beginning at the opening of business on any record date and ending on the close of business on the related Interest Payment Date.

Neither the Note Registrar nor the Trustee shall have the obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 311. CUSIP Numbers. The Company in issuing the Notes may use “CUSIP” numbers, ISINs and “Common Code” numbers (in each case, if then generally in use) in addition to serial numbers, and, if so, the Trustee shall use such “CUSIP” numbers, ISINs and “Common Code” numbers in addition to serial numbers in notices of redemption, repurchase or other notices to Holders as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such “CUSIP” numbers, ISINs and “Common Code” numbers either as printed on the Notes or as contained in any notice of a redemption or repurchase and that reliance may be placed only on the serial or other identification numbers printed on the Notes, and any such redemption or repurchase shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing of any change in the “CUSIP” numbers, ISINs and “Common Code” numbers applicable to the Notes.

ARTICLE FOUR SATISFACTION AND DISCHARGE

Section 401. Satisfaction and Discharge of Indenture. Upon the direction of the Company to the Trustee by a Company Order, this Indenture shall cease to be of further effect, and the Trustee, on receipt of a Company Order, at the expense of the Company, shall execute such instruments reasonably requested by the Company acknowledging satisfaction and discharge of this Indenture as to such Notes, when

- (1) either
 - (a) all Notes theretofore authenticated and delivered (other than (i) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or
 - (b) all Notes not theretofore delivered to the Trustee for cancellation:
 - (i) have become due and payable, or
 - (ii) will become due and payable at their Stated Maturity within one year, or
 - (iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company, in the case of clause (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose, money in an amount sufficient to pay and discharge the entire indebtedness on all Notes not theretofore delivered to the Trustee for cancellation, including the principal of, and any premium and interest on, such Notes, to the date of such deposit (in the case of Notes which have become due and payable) or to the Stated Maturity or Redemption Date thereof, as the case may be;

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

(3) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive such satisfaction and discharge. In addition, nothing in this Section 401 shall be deemed to discharge the obligations of the Company to the Trustee under Section 607 and the obligations of the Company to any Authenticating Agent under Section 613 that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 402. Application of Trust Money. Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company to the extent it is acting as its own Paying Agent), to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee, but such money need not be segregated from other funds except to the extent required by law. The Company may direct by a Company Request the investment of any money deposited with the Trustee pursuant to Section 401 in Government Obligations with a maturity of one year or less. In the absence of any such Company Request, such funds will be held in cash.

If the Trustee or Paying Agent is unable to apply any money in accordance with Section 401 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 401 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 401; provided that if the Company has made all payments of principal of, premium, if any, or interest on any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE FIVE REMEDIES

Section 501. Events of Default. "*Event of Default*," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any principal of, or premium, if any, on the Notes issued under this Indenture when due;

(2) default in the payment of any interest (including Additional Interest) on any Note when such interest becomes due and payable, and continuance of such default for a period of 30 days;

(3) default by the Company in the performance of or compliance with any term contained in Sections 1006(d), 1010, 1011, 1012 and 1017;

(4) default in the performance, or breach, of any other covenant or warranty of the Company or any Subsidiary Guarantor in this Indenture or any Note (other than a covenant or warranty for which the consequences of breach or nonperformance are addressed elsewhere in this Section 501), and continuance of such default or breach for a period of 60 days after the Company receiving from the Trustee or the Company and the Trustee receiving from the Holders of at least 25% in aggregate principal amount of the Outstanding Notes a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "*Notice of Default*" hereunder;

(5) default in the payment of principal when due on, or any other default resulting in the acceleration of, other indebtedness of the Company or any of its Significant Subsidiaries for borrowed money where the aggregate principal amount with respect to which the default or acceleration has occurred exceeds \$25,000,000 or which constitutes a failure to pay when due (after expiration of any applicable grace period) such indebtedness for borrowed money in an aggregate principal amount exceeding \$25,000,000, but only if such indebtedness for borrowed money is not discharged or such acceleration is not rescinded or annulled within 30 days after written notice, given in accordance with Section 106, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Notes;

(6) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company or any of its Significant Subsidiaries in an involuntary case or proceeding under any applicable Insolvency Laws or (ii) a decree or order adjudging the Company or any of its Significant Subsidiaries a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company or any of its Significant Subsidiaries under any applicable Federal or State law, or appointing a custodian, receiver, conservator, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any of its Significant Subsidiaries or of any substantial part of the property of the Company or any of its Significant Subsidiaries, or ordering the winding up or liquidation of the affairs of the Company or any of its Significant Subsidiaries, and the continuance of any such decree or order for relief unstayed and in effect for a period of 90 consecutive days;

(7) the commencement by the Company or any of its Significant Subsidiaries of a voluntary case or proceeding under any applicable Insolvency Laws or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by the Company or any of its Significant Subsidiaries to the entry of a decree or order for relief in respect of the Company or any of its Significant Subsidiaries in an involuntary case or proceeding under any applicable Insolvency Laws or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any of its Significant Subsidiaries, or the filing by the Company or any of its Significant Subsidiaries of a petition or answer or consent seeking reorganization or relief under any applicable Insolvency Laws, or the consent by the Company or any of its Significant Subsidiaries to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, conservator, liquidator, assignee, trustee, sequestrator or similar official of the Company or any of its Significant Subsidiaries or of any substantial part of the property of the Company or any of its Significant Subsidiaries, or the making by the Company or any of its Significant Subsidiaries of an assignment for the benefit of creditors, or the taking of corporate action by the Company or any of its Significant Subsidiaries in furtherance of any such action; or

(8) one or more final judgments or orders for the payment of money aggregating in excess of \$100,000,000 (or its equivalent in the relevant currency of payment), including any such final order enforcing a binding arbitration decision, are rendered against one or more of the Company and its Significant Subsidiaries and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay.

Section 502. Acceleration of Maturity; Rescission and Annulment. If an Event of Default with respect to the Notes in Section 501(6) or (7) has occurred, all the Notes then Outstanding shall automatically become immediately due and payable. If any other Event of Default has occurred and is continuing, then either the Trustee or the Holders of not less than 25% of the aggregate principal amount of the Outstanding Notes may declare the principal of all the Notes, and accrued and unpaid interest, if any, thereon to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by the Holders), and the Trustee at the written direction of such Holders shall declare the principal of, premium, and accrued and unpaid interest, if any, on the Notes to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 502, whether automatically or by declaration of acceleration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon (including Additional Interest, if any, and interest accrued thereon at the Default Rate) and (y) the premium determined in respect of such principal amount calculated as the greater of (i) 100% of the aggregate principal amount of the Notes due and payable on such date or (ii) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes due and payable that would have been due if the Notes matured on the Stated Maturity, discounted to the date of acceleration on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 50 basis points, shall all be immediately due and payable, in each and every case without presentment, demand protest or further notice, all of which are hereby waived. Each Holder of a Note has the right to hold the Notes free from repayment by the Company (except as herein specifically provided for) and the provision for payment of a premium by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, which is intended to provide compensation for the deprivation of such right under such circumstances. Upon payment of such amount, all obligations of the Company in respect of the payment of principal of, premium and interest on the Notes shall terminate.

If an Event of Default under Section 501(1) or (2) with respect to the Notes has occurred and is continuing, any Holder or Holders of Notes at the time Outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company and the Trustee, declare the Notes held by it or them to be immediately due and payable.

At any time after the Notes have been accelerated and before a judgment or decree for payment of the money due based on such acceleration has been obtained by the Trustee as hereinafter in this Article Five provided, the Holders of a majority of the aggregate principal amount of the Outstanding Notes, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company has paid or deposited with the Trustee a sum of money sufficient to pay:

(a) all overdue installments of any interest at the Default Rate on any Notes which have become due otherwise than by such declaration of acceleration;

(b) the principal of and any premium on any Notes which have become due otherwise than by such declaration of acceleration and, to the extent permitted by applicable law, interest thereon at the rate or respective rates, as the case may be, provided for in or with respect to such Notes, or, if no such rate or rates are so provided, at the rate or respective rates, as the case may be, of interest borne by such Notes;

(c) to the extent permitted by applicable law, interest upon installments of any interest, if any, which have become due otherwise than by such declaration of acceleration at the rate or respective rates, as the case may be, provided for in or with respect to such Notes, or, if no such rate or rates are so provided, at the rate or respective rates, as the case may be, of interest borne by such Notes, and

(d) all sums paid or advanced by the Trustee hereunder and the compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and all other amounts due the Trustee under Section 607; and

(2) all Events of Default, other than the non-payment of the principal of, any premium and interest on, Notes which shall have become due solely by such declaration of acceleration, shall have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 503. Collection of Indebtedness and Suits for Enforcement by Trustee. If an Event of Default specified in Section 501(1) or (2) occurs and is continuing, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums due hereunder pursuant to this Article Five and unpaid, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel. The Trustee may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

If an Event of Default specified in Section 501(1) or (2) occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders under this Indenture by the judicial proceedings discussed above as the Trustee shall deem necessary to protect and enforce any such rights.

Section 504. Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor, upon the Notes or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium, if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise.

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Notes and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(2) to collect, receive and distribute any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 607.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 505. Trustee May Enforce Claims Without Possession of Notes. All rights of action and claims under this Indenture, any Subsidiary Guaranty or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

Section 506. Application of Money Collected. Any money or property collected by the Trustee pursuant to this Article Five shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607;

SECOND: To the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes for principal (and premium, if any) and interest, respectively; and

THIRD: The balance, if any, to the Company.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 506.

Section 507. Limitation on Suits. Subject to Section 508, no Holder of any Notes shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, any Subsidiary Guaranty or the Notes, or for the appointment of a receiver or Trustee, or for any other remedy hereunder, unless:

- (1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (2) Holders of at least 25% in principal amount of the Outstanding Notes have made written request to the Trustee to pursue the remedy, and offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities incurred in compliance with such request;
- (3) the Trustee has not complied with such request within 60 days after the receipt thereof and such offer of security or indemnity;
and
- (4) Holders of a majority in aggregate principal amount of the Outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period,

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders (it being further understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 508. Unconditional Right of Holders to Receive Principal, Premium and Interest. Notwithstanding any other provision in this Indenture, the Holder of any Note shall have the contractual right, which is absolute and unconditional, to institute suit for the enforcement of any payment of the principal of (and premium, if any) and interest (including any Additional Interest) on, the Notes on the respective Stated Maturities expressed in such Note (or, in the case of redemption or repurchase, on the Redemption Date or Change of Control Payment Date, respectively) on or after such respective dates, and such rights shall not be changed without the consent of such Holder.

Section 509. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, any other obligor of the Notes, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 510. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in the last paragraph of Section 305, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 511. Delay or Omission Not Waiver. No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article Five or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 512. Control by Holders. The Holders of a majority in aggregate principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, provided that:

- (1) such direction shall not be in conflict with any rule of law or with this Indenture;

(2) subject to Section 315 of the Trust Indenture Act, the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and

(3) the Trustee need not take any action which might involve it in personal liability or be unduly prejudicial to the Holder's not consenting.

Section 513. Waiver of Default. Subject to Sections 508 and 902, the Holders of a majority in aggregate principal amount of the Outstanding Notes by written notice to the Trustee may on behalf of the Holders of all such Notes waive any Default or Event of Default hereunder and its consequences and may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Notwithstanding the foregoing, the Holders may not waive a continuing Default or Event of Default (1) in respect of the payment of interest on, premium, if any, or the principal of any such Note held by a non-consenting Holder, or (2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Note affected.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

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

Section 514. Waiver of Stay or Extension Laws. Each of the Company and any other obligor on the Notes covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force that would prohibit or forgive the Company from paying any portion of the principal of, and premium, if any, and interest on the Notes.

Section 515. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the reasonable costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 515 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 508 hereof, or a suit by Holders of more than 10% in principal amount of the then Outstanding Notes.

ARTICLE SIX
THE TRUSTEE

Section 601. Duties of the Trustee.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions specifically required by any provision hereof to be provided to it, the Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Indenture, but not to verify the contents thereof including, but not limited to, the accuracy of mathematical calculations.

(b) If an Event of Default has occurred and is continuing of which a Responsible Officer of the Trustee has actual knowledge or of which written notice in accordance with Section 106 of such Event of Default has been delivered to the Trustee, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. The Trustee shall not be deemed to have knowledge of, or be required to act (including the sending of any notice) based on, any event unless a Responsible Officer of the Trustee receives written notice of such an event or has obtained actual knowledge of such an event.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent or bad faith action, its own negligent or bad faith failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the Outstanding Notes relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity or security against such risk or liability is not reasonably assured to it;

- (5) the permissive right of the Trustee to take any action enumerated in this Indenture shall not be construed as a duty; and
- (6) under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

Section 602. Notice of Defaults. If a Default or Event of Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall transmit, in the manner and to the extent provided in TIA Section 313(c), notice of such Default or Event of Default within 90 days after it occurs unless such Default or Event of Default shall have been cured or waived. Except in the case of a Default or Event of Default in the payment of the principal of (or premium, if any, on) or interest on any Note, the Trustee shall be protected in withholding such notice if it determines that the withholding of such notice is in the interest of the Holders. In addition, the Trustee shall have no obligation to accelerate the Notes if in the best judgment of the Trustee acceleration is not in the best interest of the Holders of such Notes.

Section 603. Certain Rights of Trustee. Subject to the provisions of TIA Sections 315(a) through 315(d):

(1) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in original, facsimile or pdf form) believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate and/or an Opinion of Counsel;

(4) the Trustee may consult with counsel of its own selection and the advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel;

(5) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses, losses and liabilities which might be incurred by it in compliance with such request or direction;

(6) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company during ordinary business hours, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(7) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(8) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(9) the rights, privileges, protections, immunities and benefits given to the Trustee pursuant to this Indenture, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(10) in no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(11) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(12) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this indenture;

(13) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references this Indenture and the Notes;

(14) the Trustee shall have the right to decline to take any action if the Trustee, being advised by counsel, determines that such action may not lawfully be taken; and

(15) the Trustee shall have no responsibility or liability for the acts or omissions of any other party, including the Paying Agent, Authenticating Agent or Depository (provided, however, that this protection shall not limit the responsibility or liability of UMB Bank, NA, in its capacity as the initial Paying Agent).

Section 604. Trustee Not Responsible for Recitals or Issuance of Notes. The recitals contained herein and in the Notes, except for the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Notes and perform its obligations hereunder. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds thereof.

Section 605. May Hold Notes. The Trustee, any Paying Agent, the Note Registrar or any other agent of the Company or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311, may otherwise deal with the Company with the same rights it would have if it were not the Trustee, Paying Agent, Note Registrar or such other agent; provided, however, that, if it acquires any conflicting interest, it must eliminate such conflict within 90 days, apply to the SEC for permission to continue, or resign.

Section 606. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

Section 607. Compensation and Reimbursement. The Company agrees:

(1) to pay to the Trustee from time to time such compensation as shall be agreed in writing between the Company and the Trustee for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable out-of-pocket expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall be determined to have been caused by its own negligence, bad faith or willful misconduct; and

(3) to indemnify the Trustee and any predecessor Trustee and their respective agents for, and to hold each of them harmless against, any and all losses, liabilities, claims, damages or reasonable out-of-pocket expenses, including taxes (other than the taxes based on the income of the Trustee), incurred without negligence, bad faith or willful misconduct on its part as finally adjudicated by a court of competent jurisdiction, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim regardless of whether the claim is asserted by the Company, a Holder or any other Person or liability in connection with the exercise or performance of any of its powers or duties hereunder or in connection with enforcing the provisions of this Section.

The obligations of the Company under this Section to compensate the Trustee, to pay or reimburse the Trustee for reasonable out-of-pocket expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall survive the satisfaction and discharge of this Indenture and resignation or removal of the Trustee. As security for the performance of such obligations of the Company, the Trustee shall have a claim and lien prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of (and premium, if any) or interest on particular Notes.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 501(6) or (7), the expenses (including the reasonable charges and expenses of its counsel) of and the compensation for such services are intended to constitute expenses of administration under any applicable Insolvency Laws.

The provisions of this Section shall survive the termination of this Indenture and resignation or removal of the Trustee.

Section 608. Corporate Trustee Required; Eligibility. There shall be at all times a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and (5) and shall have a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of Federal, State, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article Six.

Section 609. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article Six shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 610.

(b) The Trustee may resign at any time by giving written notice thereof within 30 days of such resignation to the Company. Upon receiving such notice of resignation, the Company shall promptly appoint a successor Trustee by written instrument executed by authority of the Board of Directors, a copy of which shall be delivered to the resigning Trustee and a copy to the successor Trustee, if the instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed with 30 days' notice at any time by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes, delivered to the Trustee and to the Company. If the instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

(d) The Trustee shall comply with TIA Section 310(b); provided, however, that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Notes delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder of at least 10% in aggregate principal amount of the Notes who has been a bona fide Holder of a Note for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 107. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

Section 610. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(b) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article Six.

Section 611. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder (provided that such corporation shall be otherwise qualified and eligible under this Article Six) without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 612. Appointment of Co-Trustee.

(a) Notwithstanding any other provisions of this Indenture, at any time, for the purpose of meeting any legal requirement of any jurisdiction in which any part of the trust created under this Indenture may at the time be located, the Trustee shall have the power and may execute and deliver all instruments necessary to appoint one or more Persons to act as a co-trustee or co-trustees, or separate trustee or separate trustees, of all or any part of such trust, and to vest in such Person or Persons, in such capacity and for the benefit of the Holders, such title to the trust, or any part hereof, and subject to the other provisions of this Section, such powers, duties, obligations, rights and trusts as the Trustee may consider necessary or desirable. No co-trustee or separate Trustee hereunder shall be required to meet the terms of eligibility as a successor trustee under Section 608 and no notice to Holders of the appointment of any co-trustee or separate trustee shall be required under Section 609 hereof.

(b) Every separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(i) all rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon and exercised or performed by the Trustee and such separate trustee or co-trustee jointly (it being understood that such separate trustee or co-trustee is not authorized to act separately without the Trustee joining in such act), except to the extent than under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations (including the holding of title to the trust created by this Indenture or any portion thereof in any such jurisdiction) shall be exercised and performed singly by such separate trustee or co-trustee, but solely at the direction of the Trustee;

- (ii) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and
- (iii) the Trustee may at any time accept the resignation of or remove any separate trustee or co-trustee.

(c) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Trustee or separately, as may be provided therein, subject to all the provisions of this Indenture, specifically including every provision of this Indenture relating to the conduct of, affecting the liability of, or affording protection or rights (including the rights to compensation, reimbursement and indemnification hereunder) to, the Trustee. Every such instrument shall be filed with the Trustee.

(d) Any separate trustee or co-trustee may at any time constitute the Trustee its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor trustee.

Section 613. Appointment of Authenticating Agent. At any time when any of the Notes remain Outstanding, the Trustee may appoint an authenticating agent or agents with respect to the Notes which shall be authorized to act on behalf of the Trustee to authenticate Notes (an “*Authenticating Agent*”) and the Trustee shall give written notice of such appointment to all Holders of Notes with respect to which such Authenticating Agent shall serve, in the manner provided for in Section 107. Notes so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Any such appointment shall be evidenced by an instrument in writing signed by a Responsible Officer of the Trustee, and a copy of such instrument shall be promptly furnished to the Company. Wherever reference is made in this Indenture to the authentication and delivery of Notes by the Trustee or the Trustee’s certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States, any state thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by Federal or state authority.

If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent (provided that such corporation shall be otherwise eligible under this Section) without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Notes, in the manner provided for in Section 107. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time such compensation for its services under this Section as shall be agreed in writing between the Company and such Authenticating Agent.

If an appointment is made pursuant to this Section, the Notes may have endorsed thereupon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

This is one of the Notes designated therein referred to in the within-mentioned Indenture.

UMB Bank, NA, as Trustee

By: [],
as Authentication Agent

By: _____
as Authorized Signatory

Dated: _____

**ARTICLE SEVEN
HOLDERS LISTS AND REPORTS BY TRUSTEE AND COMPANY**

Section 701. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with Trust Indenture Act Section 312(a). If the Trustee is not the Note Registrar, the Company shall furnish to the Trustee at least two Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes, upon which the Trustee may conclusively rely, and the Company shall otherwise comply with Trust Indenture Act Section 312(a).

Section 702. Disclosure of Names and Addresses of Holders. Every Holder, by receiving and holding Notes, agrees with the Company and the Trustee that none of the Company or the Trustee or any agent of either of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

Section 703. Reports by Trustee. Within 60 days after August 1 of each year commencing with August 1, 2021, and for so long as Notes remain Outstanding, the Trustee shall send to the Holders (with a copy to the Company at the address specified in Section 106), in the manner and to the extent provided in TIA Section 313(c), a brief report dated as of such August 1 that complies with TIA Section 313(a). The Trustee also shall comply with TIA Section 313(b)(2) and (d). The Trustee shall also transmit all reports as required by the TIA Section 313(c).

ARTICLE EIGHT
MERGER, CONSOLIDATION OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS

Section 801. Company May Consolidate, Etc., Only on Certain Terms. The Company shall not, in any transaction or series of related transactions, consolidate with or merge into any Person or sell, assign, transfer, lease or otherwise convey all or substantially all its properties and assets to any Person, unless:

(a) either (A) the Company shall be the continuing Person (in the case of a merger), or (B) the successor Person (if other than the Company) formed by such consolidation or into which the Company is merged or which acquires by sale, assignment, transfer, lease or other conveyance all or substantially all the properties and assets of the Company shall be an entity organized and existing under the laws of the United States, any state thereof or the District of Columbia and shall expressly assume the due and punctual payment of the principal of, any premium and interest on, all the Outstanding Notes and the due and punctual performance and observance of every obligation in this Indenture and the Outstanding Notes to be observed or performed by the Company;

(b) immediately after giving effect to such transaction, no Event of Default and no event which, after notice or lapse of time or both, would become an Event of Default shall have occurred and be continuing;

(c) each Subsidiary Guarantor under any Subsidiary Guaranty that is outstanding at the time such transaction or each transaction in such a series of transactions occurs reaffirms its obligations under such Subsidiary Guaranty in writing at such time; and

(d) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, assignment, transfer, lease or other conveyance and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

For purposes of this Section 801, the sale, assignment, transfer, lease or conveyance of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the Company's properties and assets on a consolidated basis, will be deemed to be the sale, assignment, transfer, lease or conveyance of all of substantially all of the Company's properties and assets.

Section 802. Successor Substituted. Upon any consolidation by the Company with or merger of the Company into any other Person or any sale, assignment, transfer, lease or other conveyance of all or substantially all of the properties and assets of the Company to any Person in accordance with Section 801, the successor Person formed by such consolidation or into which the Company is merged or to which such sale, assignment, transfer, lease or other conveyance is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; and thereafter, except in the case of a lease, the predecessor Person shall be released from all obligations and covenants under this Indenture and the Notes.

ARTICLE NINE AMENDMENT, SUPPLEMENT AND WAIVER

Section 901. Amendments or Supplements Without Consent of Holders. Notwithstanding Section 902 hereof, without notice to or the consent of any Holder, the Company, any Subsidiary Guarantors and the Trustee, at any time and from time to time, may enter into an indenture or indentures supplemental hereto, for any of the following purposes:

(a) to evidence a successor to the Company and the assumption by that successor of the Company's obligations under this Indenture and the Notes;

(b) to provide for the assumption of the Company's or any Subsidiary's obligations under this Indenture, the Notes and any Subsidiary Guaranty, as applicable, by a successor Person in the case of a merger or consolidation of the Company or any Subsidiary Guarantor or the conveyance of all or substantially all of the assets of the Company or any Subsidiary Guarantor, as applicable;

(c) to add to the covenants of the Company for the benefit of the Holders;

(d) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee pursuant to the requirements of Sections 609 and 610 hereof or a separate trustee or co-trustee pursuant to Section 612 hereof;

(e) to cure any ambiguity or omission or to correct or supplement any provision herein which may be defective or which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this indenture which shall not adversely affect the interests of the Holders of Notes then Outstanding, as determined by the Company;

(f) to add any additional Events of Default with respect to Notes for the benefit of the Holders of the Notes;

(g) to secure the Notes or to provide a guarantee of the Notes;

(h) to provide for a successor trustee or the appointment of more than one trustee;

(i) to comply with the requirements of the SEC in order to effect or maintain qualification of this Indenture under the Trust Indenture Act;

(j) to release any Subsidiary Guarantor in accordance with the terms of this Indenture; or

(k) to allow any Subsidiary Guarantor to execute a supplemental indenture and/or a Subsidiary Guaranty with respect to the Notes.

Upon the request of the Company and receipt by the Trustee of the documents described in Section 903 hereof, the Trustee shall join with the Company and any Subsidiary Guarantors in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 902. Amendments or Supplements with Consent of Holders. With the consent of the Holders of a majority in aggregate principal amount of the Outstanding Notes (including consents obtained in connection with a purchase of, or tender offer for, the Notes), by Act of said Holders delivered to the Company, any Subsidiary Guarantors and the Trustee, the Company, any Subsidiary Guarantors and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, the Notes or any Subsidiary Guaranty, as applicable, or of modifying in any manner the rights of the Holders of such Notes under this Indenture; provided, that no such supplemental indenture, without the consent of the Holder of each Outstanding Note affected thereby, shall:

(a) change the Stated Maturity of the Notes, or reduce the principal amount thereof or the rate (or modify the calculation of such rate) of interest thereon or any premium payable upon the redemption or repurchase thereof or otherwise, or change the Place of Payment where or the currency in which the principal of, any premium or interest on, any Note is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date or, in the case of repayment at the option of the Holder, on or after the date for repayment);

(b) modify any of the provisions of this Section or Section 513, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby;

(c) waive a Default or Event of Default in the payment of principal of, premium on, if any, or interest on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(d) make any Note payable in money other than that stated in the Notes;

(e) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of, premium on, if any, or interest on, the Notes;

(f) waive a redemption payment with respect to any Note; or

(g) release any Subsidiary Guarantor from any of its obligations under its Subsidiary Guaranty or this Indenture, except in accordance with the terms of this Indenture.

It shall not be necessary for any Act of Holders of Notes under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 903. Execution of Supplemental Indentures. The Trustee shall sign any supplemental indenture authorized pursuant to this Article Nine if the supplemental indenture does not adversely affect the rights, duties, liabilities or immunities of the Trustee, and if such supplemental indenture adversely affects such rights, duties, liabilities or immunities, the Trustee may but need not sign it. In executing any supplemental indenture, the Trustee shall receive and (subject to Section 601 hereof) shall be fully protected in conclusively relying upon, in addition to the documents required by Section 103 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and that such supplemental indenture is the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 905).

Section 904. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article Nine, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 905. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Notes shall be set forth in a supplemental indenture that complies with the Trust Indenture Act as then in effect.

Section 906. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article Nine may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

ARTICLE TEN COVENANTS

Section 1001. Payment of Principal, Premium, if Any, and Interest. The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in Section 301 and the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company, holds as of 11:00 a.m. (Eastern Time) on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Company shall pay Additional Interest, if any, on the dates of its choosing in the amounts and in the manner set forth in the applicable Registration Rights Agreement and in the Notes.

If the Company shall be obligated to pay Additional Interest to the Holders of the Notes pursuant to any Registration Rights Agreement, the Company shall use commercially reasonable efforts to, no less than two (2) Business Days prior to the date on which such Additional Interest is to be paid, provide written notice to the Trustee and the Paying Agent (if other than the Trustee) of the amount of such Additional Interest due and the date on which such Additional Interest shall be paid to the Holders.

Section 1002. Maintenance of Office or Agency. The Company shall maintain an office or agency in the United States where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Corporate Trust Office of the Trustee shall be the office or agency of the Company where Notes may be presented or surrendered for payment or for registration of transfer or exchange, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The office of the Company where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served at the office of the Company designated in Section 106. The Company shall give prompt written notice to the Trustee of any change in the location of any such office or agency.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation. The Company shall give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 1003. Paying Agent to Hold Money in Trust. If the Company shall at any time act as its own Paying Agent, it shall, on or before each due date of the principal (or premium, if any) or interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal of (or premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and shall promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for the Notes, it shall, prior to 11:00 a.m. (Eastern Time) on each due date of the principal of (or premium, if any) or interest on any Notes, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee in writing of such action or any failure so to act.

The Company shall cause each Paying Agent (other than the Trustee) to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent shall:

- (1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest on Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (2) give the Trustee written notice of any Default by the Company (or any other obligor upon the Notes) in the making of any payment of principal (and premium, if any) or interest; and
- (3) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

Subject to applicable laws relating to abandoned property, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (or premium, if any) or interest on any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as Trustee thereof, shall thereupon cease.

Section 1004. Corporate Existence. Subject to Article Eight, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence in accordance with the organizational documents (as the same may be amended from time to time) of the Company; *provided* that the Company shall not be required to preserve any such existence if the Company in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole.

Section 1005. Payment of Taxes and Other Claims. The Company shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all material taxes, assessments and governmental charges levied or imposed upon the Company or upon the income, profits or property of the Company; *provided*, however, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment or charge whose amount, applicability or validity is being contested in good faith by appropriate proceedings or negotiations or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes. Notwithstanding anything to the contrary contained in this Indenture, the Company may, to the extent required to do so by law, deduct or withhold income or other similar taxes imposed by the United States from principal, premium or interest payments under this Indenture.

Section 1006. Compliance Certificates; SEC Reports.

(a) The Company shall deliver to the Trustee within 60 days (or such shorter period as is 15 days greater than the period applicable to the filing of the Company's Quarterly Report on Form 10-Q with the SEC regardless of whether the Company is subject to the filing requirements thereof) after the end of each of the first three quarters of its fiscal year an Officer's Certificate stating that, to the signing Officer's knowledge, the Company is in compliance with each of the covenants in Sections 1010, 1011 and 1012 as of the end of such quarter and, if a Default with respect to any such covenant had occurred as of the end of such quarter, the certificate shall specify such Default and state whether or not it is then continuing.

(b) The Company shall deliver to the Trustee within 120 days (or such shorter period as is 15 days greater than the period applicable to the filing of the Company's Annual Report on Form 10-K with the SEC regardless of whether the Company is subject to the filing requirements thereof) after the end of each fiscal year (which as of the date hereof, ends on December 31), an Officer's Certificate from a Senior Financial Officer stating that, to the signing Officer's knowledge, the Company during such preceding fiscal year has performed, and is in compliance with, each and every covenant (including those in Sections 1010, 1011 and 1012) and condition contained in this Indenture and at the date of such certificate there is no Default or Event of Default that has occurred and is continuing or, if such signer does know of such Default or Event of Default that is continuing, the certificate shall specify such Default or Event of Default, as applicable.

(c) So long as any Notes remain Outstanding, if the Company is subject to Section 13(a) or 15(d) of the Exchange Act or any successor provision, the Company shall deliver to the Trustee the annual reports, quarterly reports and other documents which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, within 15 days after the date that the Company is required to file the same with the SEC. Reports and other documents filed with the SEC via the EDGAR system will be deemed to be delivered to the Trustee as of the time of such filing via EDGAR for purposes of this covenant; provided, however, that the Trustee shall have no obligation whatsoever to determine whether or not such information, documents or reports have been filed via EDGAR.

Delivery of such reports, information and documents to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

(d) When any Default or Event of Default has occurred under this Indenture, the Company shall deliver to the Trustee an Officer's Certificate specifying such event, notice or other action, and any actions that have been taken to cure such Default, within fifteen days of a Responsible Officer becoming aware of its occurrence. For the avoidance of doubt, the Company shall have no obligation under this Section 1006(d) to give notice of any Default under any of the covenants in Sections 1010 through 1012 prior to the end of the fiscal quarter to which such covenant relates.

Section 1007. Delivery of Rule 144A Information. So long as any Notes remain Outstanding, if at any time the Company is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company will, so long as the Notes constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, prepare and will furnish to the Trustee and, upon written request, furnish to any Holder of Notes, any beneficial owner of an interest in a Global Note and any prospective purchaser or other prospective transferee of Notes designated by a Holder of Notes or a beneficial owner of an interest in a Global Note, in each case, at the expense of the Company, the financial statements and other information specified in Rule 144A(d)(4) (or any successor provision thereto) under the Securities Act, in each case to the extent necessary to permit the resale or other transfer of Notes by such Holder or beneficial owner to be made in compliance with Rule 144A under the Securities Act. The Company shall take such further action as any Holder of Notes or beneficial owner of an interest in a Global Note may reasonably request to the extent from time to time required to enable such Holder of Notes or beneficial owner to sell such Notes or shares of the Company's common stock in accordance with Rule 144A under the Securities Act, as such Rule may be amended from time to time.

Delivery of such reports, information and documents to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

Section 1008. Subsidiary Guarantors.

(a) The Company will cause each of its Subsidiaries that guarantees or otherwise becomes liable at any time, whether as a borrower or an additional or co-borrower or otherwise, for or in respect of any Debt under any Material Credit Facility to concurrently therewith, execute and deliver to the Trustee:

(i) a supplemental indenture to this Indenture providing for the guaranty by such Subsidiary, on a joint and several basis with all other such Subsidiaries, of (x) the prompt payment in full when due of all amounts payable by the Company pursuant to the Notes (whether for principal, interest, premium or otherwise) and this Indenture, including all indemnities, fees and expenses payable by the Company thereunder and (y) the prompt, full and faithful performance, observance and discharge by the Company of each and every covenant, agreement, undertaking and provision required pursuant to the Notes or this Indenture to be performed, observed or discharged by it;

(ii) a supplement to the Registration Rights Agreement, if the Company has any remaining obligations under such agreement; and

(iii) an Officer's Certificate and an Opinion of Counsel, each certifying that such supplemental indenture and such supplement to the Registration Rights Agreement, if applicable, has been duly authorized, executed and delivered by such Subsidiary and constitutes a valid and legally binding and enforceable obligation of such Subsidiary, subject to customary exceptions.

Any such supplemental indenture may be in the form of such supplemental indenture attached as Appendix B hereto or such other form as agreed between the Company, the applicable Subsidiary Guarantor and the Trustees.

(b) At the election of the Company and by written notice to each holder of Notes, any Subsidiary Guarantor that has provided a Subsidiary Guaranty under subparagraph (a) of this Section 1008 may be discharged from all of its obligations and liabilities under its Subsidiary Guaranty and shall be automatically released from its obligations thereunder without the need for the execution or delivery of any other document by the Trustee, *provided* that (i) if such Subsidiary Guarantor is a guarantor or is otherwise liable for or in respect of any Material Credit Facility, then such Subsidiary Guarantor has been released and discharged (or will be released and discharged concurrently with the release of such Subsidiary Guarantor under its Subsidiary Guaranty) under such Material Credit Facility, (ii) at the time of, and after giving effect to, such release and discharge, no Default or Event of Default shall be existing, (iii) no amount is then due and payable under such Subsidiary Guaranty, (iv) if in connection with such Subsidiary Guarantor being released and discharged under any Material Credit Facility, any fee or other form of consideration is given to any holder of Debt under such Material Credit Facility for such release, the Holders of the Notes shall receive equivalent consideration substantially concurrently therewith and (v) the Trustee shall have received a certificate of an Officer certifying as to the matters set forth in clauses (i) through (iv). In the event of any such release, for purposes of Section 1017, all Debt of such Subsidiary shall be deemed to have been incurred concurrently with such release.

Section 1009. Change of Control Offer. Upon the occurrence of a Change of Control Triggering Event, each Holder shall have the right to require the Company to purchase all or any part (equal to \$1,000 or an integral multiple of \$1,000 in excess thereof) of the Holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, up to, but excluding, the Change of Control Payment Date; provided, however, that if such date of purchase is after the taking of a record of the Holders on a record date and on or prior to the related Interest Payment Date, the accrued and unpaid interest shall be payable to the Person in whose name the repurchased Notes are registered on such record date. Notwithstanding the foregoing, the Company shall have no obligation to repurchase any Notes pursuant to this Section 1009 to the extent that the Company shall have exercised its right to redeem the Notes pursuant to Section 1101.

For purposes of this Section 1009, the term “*Change of Control*” means the occurrence of any one of the following:

(a) the sale, assignment, lease, transfer or other conveyance (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties and assets of the Company and its Subsidiaries taken as a whole to any “person” (as that term is used in Section 13(d)(3) of the Exchange Act) other than to the Company or one or more of its Subsidiaries or a combination thereof or a Person controlled by the Company or one or more of its Subsidiaries or a combination thereof; or

(b) the consummation of any transaction (including any merger or consolidation) the result of which is that any “person” (as that term is used in Section 13(d)(3) of the Exchange Act) (other than any Subsidiary of the Company) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the outstanding Voting Stock of the Company, measured by voting power rather than number of shares or the like.

Notwithstanding the foregoing, a transaction shall not be deemed to involve a “Change of Control” under clause (b) above if (i) the Company becomes a direct or indirect wholly owned Subsidiary of a holding company and (ii)(A) the direct or indirect holders of the Voting Stock of such holding company immediately following such transaction are substantially the same as the holders of the Voting Stock of the Company immediately prior to such transaction or (B) immediately following such transaction no “person” (as that term is used in Section 13(d)(3) of the Exchange Act) (other than a holding company satisfying the requirements of this sentence) is the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the outstanding Voting Stock of such holding company, measured by voting power rather than number of shares or the like.

For purposes of this Section 1009, the term “*Change of Control Triggering Event*” means the Notes fail to have at least a Triple-B Rating on any date during the period commencing on the date of the first public announcement by the Company of any Change of Control (or pending Change of Control) and ending 60 days following consummation of such Change of Control (which 60-day period will be extended for so long as the rating of the Notes is under publicly announced consideration for a possible downgrade as a result of the Change of Control by any NRSRO). Notwithstanding the foregoing, no Change of Control Triggering Event will be deemed to have occurred in connection with any particular Change of Control unless and until such Change of Control has actually been consummated.

Within 10 Business Days following the date upon which the Change of Control Triggering Event has occurred, or, at the Company's option, prior to any Change of Control but after the public announcement of the transaction that constitutes or may constitute the Change of Control, except to the extent that the Company shall have exercised its right to redeem the Notes pursuant to Section 1101, the Company shall send a notice (a "*Change of Control Offer*") to each Holder with a copy to the Trustee, which notice will govern the terms of the Change of Control Offer, stating:

(1) that a Change of Control Triggering Event has occurred (or may occur) and that such Holder has (or, if a Change of Control Triggering Event has not been consummated, may have) the right to require the Company to purchase all or a portion of such Holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, up to, but excluding, the date of purchase (subject to the right of holders of record on the relevant record date to receive interest on the relevant Interest Payment Date as provided in the first paragraph of this Section 1009);

(2) the circumstances regarding such Change of Control Triggering Event;

(3) the purchase date (which shall be (i) no earlier than 30 days nor later than 60 days from the date such notice is sent, if sent after consummation of the Change of Control and (ii) on the date of the Change of Control, if such notice is sent prior to consummation of the Change of Control, in each case, other than as may be required by law) (such date, the "Change of Control Payment Date"); and

(4) the instructions that a Holder must follow in order to have its Notes purchased.

Holders electing to have Notes purchased pursuant to a Change of Control Offer must surrender their Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, to the Paying Agent at the address specified in the notice, or transfer their Notes to the Paying Agent by book-entry transfer pursuant to the applicable procedures of the paying agent for the Change of Control Offer, prior to the close of business on the third Business Day prior to the Change of Control Payment Date.

On the Change of Control Payment Date, all Notes purchased by the Company under this Section shall be delivered to the Trustee for cancellation, and the Company shall pay the purchase price plus accrued and unpaid interest, if any, to the Holders entitled thereto.

The Company may make a Change of Control Offer in advance of a Change of Control and the Change of Control Payment Date, and its Change of Control Offer may be conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making the Change of Control Offer.

The Company shall have no obligation to make a Change of Control Offer if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements of this Section 1009 for such an offer made by the Company, and such third party purchases all Notes properly tendered and not withdrawn under its offer.

The Company shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with this Section 1009, the Company shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations by virtue thereof.

If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw their Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company shall have the right, upon not less than 15 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to such Change of Control Offer, to redeem all Notes that remain Outstanding following such purchase at a Redemption Price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, up to, but excluding, the Redemption Date (subject to the right of Holders on the relevant record date to receive interest on the relevant Interest Payment Date).

Section 1010. Maintenance of Minimum Net Asset Value. The Company will not permit the Net Asset Value as of the close of business on the last day of each of its fiscal quarters to be less than \$350,000,000 plus the greater of (a) zero dollars and (b) 50% of Net Equity Capital Activity.

Section 1011. Maintenance of Consolidated Unencumbered Assets. The Company will not permit the ratio of the Company's Consolidated Unencumbered Assets as of the close of business on the last day of each of its fiscal quarters to the aggregate principal amount of unsecured Debt of the Company and its Subsidiaries as of such date to be less than 1.12 to 1.0.

Section 1012. Limitation on Debt.

(a) The Company will not permit the Senior Debt Service Coverage Ratio as of the close of business on the last day of each of the Company's fiscal quarters, calculated on a pro forma basis for the incurrence of any Debt during the applicable Testing Period, to be less than 1.2 to 1.0.

(b) The Company will not permit the Debt to Equity Ratio on the last day of each of the Company's fiscal quarters to exceed 6.0 to 1.0.

(c) In giving pro forma effect to the incurrence of any Debt during the applicable Testing Period, with respect to the Senior Debt Service Coverage Ratio, (i) the Company's Operating Cash Flow for the applicable Testing Period shall be increased by an amount equal to the product of (x) the principal amount of such Debt and (y) the Company's average yield on earning assets during the applicable Testing Period and (ii) the Company's Senior Debt Service shall be increased by the interest that would have been paid on such Debt had it been issued on the first day of the applicable Testing Period.

Section 1013. Conditional Waiver by Holders of Securities. Anything in this Indenture to the contrary notwithstanding, the Company may fail or omit in any particular instance to comply with a covenant or condition set forth herein with respect to the Notes (including the covenants set forth in Sections 1010, 1011 and 1012) if the Company shall have obtained and furnished to the Trustee, prior to the time of such failure or omission, evidence of the consent of the Holders of a majority in aggregate principal amount of the Notes of such series at the time Outstanding (except as to a covenant or condition which under Section 902 cannot be modified or amended without the consent of the Holder of each Outstanding Note affected, in which case the consent of the Holder of each Outstanding Note shall be required), either waiving such compliance in such instance or generally waiving compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, or impair any right consequent thereon and, until such waiver shall have become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

Section 1014. Rating. The Company will maintain a rating on the Notes from a NRSRO at all times, and the Company will cause such rating to be updated on an annual basis. The Company will provide the Trustee with a copy of any rating letter or notification from a NRSRO following receipt by the Company, in a form each Holder of Notes may share with their regulators, including the SVO. Such form of rating letter or notification will identify the Notes to which such rating is applicable including the aggregate principal amount, initial interest rate, maturity date and private placement number assigned to the Notes.

Section 1015. Transactions with Affiliates. The Company will not, and will not permit any Subsidiary to, enter into directly or indirectly any Material transaction or Material group of related transactions (including the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Subsidiary), except in the ordinary course of business and upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate.

Section 1016. Liens. The Company will not secure any Debt outstanding under or pursuant to any Material Credit Facility unless and until the Notes shall be concurrently secured equally and ratably with such Debt pursuant to documentation reasonably acceptable to the Trustee.

Section 1017. Subsidiary Debt. The Company will not permit any Subsidiary, which is not a Subsidiary Guarantor, to create, incur, assume or suffer to exist any unsecured Debt in an aggregate amount in excess of \$75,000,000 at any time for all such Subsidiaries; provided that for purposes of determining compliance with this Section 1017, Debt shall not include any Debt referred to in (x) clauses (i) or (k) of such definition, and (y) clauses (f) and (h) of such definition but, with respect to this clause (y), Debt shall be excluded only to the extent such Debt of a Subsidiary which is unsecured is also secured by a Lien on the assets of another Subsidiary in the ordinary course of business and consistent with past practices.

Section 1018. Economic Sanctions, Etc. The Company will not, and will not permit any Controlled Entity to (a) become (including by virtue of being owned or controlled by a Blocked Person), own or control a Blocked Person or (b) directly or indirectly have any investment in or engage in any dealing or transaction (including any investment, dealing or transaction involving the proceeds of the Notes) with any Person if such investment, dealing or transaction (i) would cause any holder or any affiliate of such holder to be in violation of, or subject to sanctions under, any law or regulation applicable to such holder, or (ii) is prohibited by or subject to sanctions under any U.S. Economic Sanctions Laws.

ARTICLE ELEVEN
REDEMPTION OF NOTES

Section 1101. Right of Redemption.

(a) At any time prior to the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days' prior notice to the Holders, at a Redemption Price equal to the greater of (i) 100% of the aggregate principal amount of the Notes to be redeemed or (ii) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes to be redeemed that would have been due if the Notes matured on the Par Call Date, discounted to the Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 50 basis points, plus, in each case, accrued and unpaid interest, if any, to, but excluding, the Redemption Date. Notwithstanding the foregoing, installments of interest on Notes that are due and payable on Interest Payment Dates falling on or prior to the relevant Redemption Date will be payable to the Holders of such Notes (or one or more Predecessor Notes) registered as such at the close of business on the relevant record dates according to their terms and the provisions of this Indenture. Any such redemption shall be effected in accordance with the terms and conditions set forth in this Indenture.

(b) From and after the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days' prior notice to the Holders, at a Redemption Price equal to 100% of the aggregate principal amount of Notes to be redeemed, plus accrued and unpaid interest, if any, thereon to, but excluding, the Redemption Date, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date.

(c) The Company may redeem all of the Notes at its election pursuant to the provisions of the final paragraph of Section 1009 and subject to the conditions specified therein.

Section 1102. Mandatory Redemption; Open Market Purchases. The Company shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes. The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the Outstanding Notes except (a) upon the payment or prepayment of the Notes in accordance with this Indenture and the Notes or (b) pursuant to an offer to purchase made by the Company or an Affiliate pro rata to the Holders of all Notes at the time Outstanding upon the same terms and conditions. Any such offer shall provide each Holder with sufficient information to enable it to make an informed decision with respect to such offer, and shall remain open for at least 15 Business Days. If the Holders of more than 50% of the principal amount of the Notes then Outstanding accept such offer, the Company shall promptly notify the remaining holders of such fact and the expiration date for the acceptance by Holders of such offer shall be extended by the number of days necessary to give each such remaining Holder at least 10 Business Days from its receipt of such notice to accept such offer. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to this Indenture and no Notes may be issued in substitution or exchange for any such Notes.

Section 1103. Applicability of Article. Redemption of Notes at the election of the Company or otherwise, as permitted or required by any provision of this Indenture or the Notes, shall be made in accordance with such provision and this Article Eleven.

Section 1104. Election to Redeem; Notice to Trustee. If the Company elects to redeem Notes pursuant to Section 1101 hereof, it shall furnish to the Trustee, at least five Business Days before notice of redemption is required to be sent or mailed or caused to be sent or mailed to Holders pursuant to Section 1106 hereof (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of the Notes to be redeemed and (iv) the Redemption Price. Any notice to the Trustee delivered pursuant to this Section 1104 may be revoked by the Company prior to the delivery of any notice of redemption sent to Holders.

Section 1105. Selection by Depository or the Trustee of Notes to Be Redeemed. If less than all of the Notes are to be redeemed, and the Notes are Global Notes, the Notes to be redeemed will be selected by the Depository in accordance with the Depository's standard procedures. Partial redemptions will be processed through the Depository Trust Issuer Corporation, in accordance with its rules and procedures, as a Pro Rata Pass-Through Distribution of Principal. If the Notes to be redeemed are Certificated Notes, the particular Notes to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee from the Outstanding Notes not previously called for redemption, by lot or such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions of the principal amount of such Notes; provided, however, that no such partial redemption shall reduce the portion of the principal amount of a Note not redeemed to less than the minimum denomination for a Note established herein.

The Trustee shall promptly notify the Company and the Note Registrar in writing of the Certificated Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Notes shall relate, in the case of any Notes redeemed or to be redeemed only in part, to the portion of the principal of such Notes which has been or is to be redeemed.

Section 1106. Notice of Redemption. Notices of redemption shall be sent by first class mail, postage prepaid, or by email, facsimile or other electronic means (or in the case of Notes held in book-entry form, by electronic transmission, or as otherwise provided in accordance with the procedures of the Depository), and sent at least 10 days but not more than 60 days before the Redemption Date to each Holder at such Holder's registered address, except that notices of redemption may be sent more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture. In connection with any redemption of Notes, any such redemption may, at the Company's discretion, be subject to one or more conditions precedent. All notices of redemption shall state:

- (1) the Redemption Date;

- (2) the Redemption Price and the amount of accrued interest to the Redemption Date payable as provided in Section 1108, if any;
- (3) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed;
- (4) in case any Note is to be redeemed in part only, the notice which relates to such Note shall state that on and after the Redemption Date, upon surrender of such Note, the Holder shall receive, without charge, a new Note or Notes of authorized denominations for the principal amount thereof remaining unredeemed;
- (5) that on the Redemption Date the Redemption Price (and accrued and unpaid interest, if any, to, but excluding, the Redemption Date payable as provided in Section 1108) shall become due and payable upon each such Note, or the portion thereof, to be redeemed, and that interest thereon shall cease to accrue on and after said date, subject to any condition precedent in that notice;
- (6) the place or places where such Notes are to be surrendered for payment of the Redemption Price and accrued interest, if any;
- (7) the name and address of the Paying Agent;
- (8) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;
- (9) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (10) the "CUSIP" number, ISIN or "Common Code" number and that no representation is made as to the accuracy or correctness of the "CUSIP" number, ISIN or "Common Code" number, if any, listed in such notice or printed on the Notes;
- (11) the paragraph of the Notes or Section of this Indenture pursuant to which the Notes are to be redeemed; and
- (12) any conditions precedent to which the redemption or notice is subject to and that, in the Company's discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Redemption Date, or by the Redemption Date so delayed.

If the Company so requests in the Officer's Certificate delivered pursuant to Section 1104, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least five Business Days before notice of redemption is required to be sent to Holders pursuant to this Section 1106 (unless a shorter notice shall be agreed to by the Trustee), a form of such notice setting forth the information specified in this Section 1106.

Section 1107. Effect of Notice of Redemption. Once notice of redemption is provided in accordance with Section 1106 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the Redemption Price, subject to any condition precedent set forth in that notice. The notice, if provided in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 1108 hereof, on and after the Redemption Date, interest shall cease to accrue on Notes or portions of Notes called for redemption.

Section 1108. Deposit of Redemption Price. Prior to 11:00 a.m. (Eastern Time) on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and accrued and unpaid interest, if any, on, all the Notes that are to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the Redemption Price of, and accrued and unpaid interest, if any, on, all Notes to be redeemed or purchased. In addition, all money, if any, earned on funds held by the Trustee or the Paying Agent, if in excess of the amounts necessary to pay the Redemption Price of, and accrued and unpaid interest, if any, on, all Notes to be redeemed or purchased shall be remitted to the Company.

Section 1109. Notes Payable on Redemption Date.

(a) Notice of redemption having been given as aforesaid, the Notes so to be redeemed shall, on the Redemption Date and assuming the satisfaction of any conditions precedent, become due and payable at the Redemption Price therein specified (together with accrued and unpaid interest to, but excluding, the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Notes shall cease to bear interest. Upon surrender of any such Note for redemption in accordance with said notice, such Note shall be paid by the Company at the Redemption Price, together with accrued and unpaid interest, if any, to, but excluding, the Redemption Date, and such Notes shall be canceled by the Trustee; provided, however, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Notes, or one or more Predecessor Notes, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

(b) If any Note called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

Section 1110. Notes Redeemed in Part. Any Note which is to be redeemed only in part (pursuant to the provisions of this Article Eleven) shall be surrendered at the office or agency of the Company maintained for such purpose pursuant to Section 1002 (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and upon receipt of a Company Order the Trustee shall authenticate and deliver to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered; provided that no Note of \$1,000 or less in principal amount will be redeemed in part.

ARTICLE TWELVE
SUBSIDIARY GUARANTY

Section 1201. Subsidiary Guaranty.

(a) Subject to this Article 12, each of the Subsidiary Guarantors hereby jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium on, if any, and interest on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, premium on, if any, and interest on, the Notes, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at Stated Maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Subsidiary Guarantors will be jointly and severally obligated to pay the same immediately. Each Subsidiary Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Subsidiary Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Subsidiary Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Subsidiary Guaranty will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Subsidiary Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Subsidiary Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guaranty, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Subsidiary Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Subsidiary Guarantor further agrees that, as between the Subsidiary Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 5 hereof for the purposes of this Subsidiary Guaranty, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 5 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Subsidiary Guarantors for the purpose of this Subsidiary Guaranty. The Subsidiary Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guaranty.

Section 1202. Limitation on Subsidiary Guarantor Liability. Each Subsidiary Guarantor and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guaranty of such Subsidiary Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal state law or similar foreign law to the extent applicable to any Subsidiary Guaranty. To effectuate the foregoing intention, the Trustee, the Holders and the Subsidiary Guarantors hereby irrevocably agree that the obligations of such Subsidiary Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Subsidiary Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under this Article 12, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guaranty not constituting a fraudulent transfer or conveyance under federal, state or similar foreign law.

Section 1203. Issuance and Delivery of Subsidiary Guaranty. To evidence its Subsidiary Guaranty set forth in Section 1201, each Subsidiary Guarantor hereby agrees that this Indenture (or, a supplemental indenture to this Indenture) shall be executed on behalf of such Subsidiary Guarantor by an Officer of such Subsidiary Guarantor.

Each Subsidiary Guarantor hereby agrees that its Subsidiary Guaranty set forth in Section 1201 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Subsidiary Guaranty on the Notes.

If an Officer whose signature is on this Indenture or on the Subsidiary Guaranty no longer holds that office at the time the Trustee authenticates the Note on which the Subsidiary Guaranty is endorsed, the Subsidiary Guaranty will be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Subsidiary Guaranty set forth in this Indenture on behalf of the Subsidiary Guarantors. Upon execution of a supplemental indenture to this Indenture by any Subsidiary Guarantor in the form of Appendix B hereto, the Subsidiary Guaranty set forth in this Indenture and such supplemental indenture shall be deemed duly delivered, without any further action by any Person, on behalf of such Subsidiary Guarantor. All the Subsidiary Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Section 1204. Subsidiary Guarantors May Consolidate, etc., on Certain Terms. Except as otherwise provided in Section 1205 hereof, no Subsidiary Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person) another Person, other than the Company or another Subsidiary Guarantor, unless either:

(a) subject to Section 1205 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (the "Successor Guarantor") unconditionally assumes all the obligations of that Subsidiary Guarantor under its Subsidiary Guarantees and this Indenture on the terms set forth herein or therein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee; or

(b) the Subsidiary Guaranty of such Subsidiary Guarantor shall be released in accordance with Section 1205 upon, or in connection with, such sale, disposition, consolidation or merger.

In case of any such consolidation, merger, sale or disposition and upon the assumption by the Successor Guarantor, by a supplemental indenture, of the Subsidiary Guarantees and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Subsidiary Guarantor, such Successor Guarantor will succeed to and be substituted for the Subsidiary Guarantor with the same effect as if it had been named herein as a Subsidiary Guarantor.

Except as set forth in Articles 8 and 10 hereof, and notwithstanding clauses (a) and (b) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Subsidiary Guarantor with or into the Company or another Subsidiary Guarantor, or will prevent any sale or conveyance of the property of a Subsidiary Guarantor as an entirety or substantially as an entirety to the Company or another Subsidiary Guarantor.

Section 1205. Releases. At the election of the Company and by written notice to each holder of Notes, any Subsidiary Guarantor that has provided a Subsidiary Guaranty may be discharged from all of its obligations and liabilities under its Subsidiary Guaranty and shall be automatically released from its obligations thereunder without the need for the execution or delivery of any other document by the Trustee, provided that (i) if such Subsidiary Guarantor is a guarantor or is otherwise liable for or in respect of any Material Credit Facility, then such Subsidiary Guarantor has been released and discharged (or will be released and discharged concurrently with the release of such Subsidiary Guarantor under its Subsidiary Guaranty) under such Material Credit Facility, (ii) at the time of, and after giving effect to, such release and discharge, no Default or Event of Default shall be existing, (iii) no amount is then due and payable under such Subsidiary Guaranty, (iv) if in connection with such Subsidiary Guarantor being released and discharged under any Material Credit Facility, any fee or other form of consideration is given to any holder of Debt under such Material Credit Facility for such release, the Holders of the Notes shall receive equivalent consideration substantially concurrently therewith and (v) the Trustee shall have received a certificate of an Officer certifying as to the matters set forth in clauses (i) through (iv). In the event of any such release, for purposes of Section 1017, all Debt of such Subsidiary shall be deemed to have been incurred concurrently with such release.

ARTICLE THIRTEEN
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 1301. Company's Option to Effect Legal Defeasance or Covenant Defeasance. The Company may, at its option, and at any time, elect to have either Section 1302 or Section 1303 be applied to all Outstanding Notes upon compliance with the conditions set forth below in this Article Thirteen.

Section 1302. Legal Defeasance and Discharge. Upon the Company's exercise of the above option applicable to this Section 1302, the Company shall be deemed to have been discharged from its obligations with respect to all Outstanding Notes on the date the conditions set forth in Section 1304 are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, such Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Outstanding Notes, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 1305 and the other Sections of this Indenture referred to in clauses (i) through (iv) of this paragraph, and to have satisfied all of its other obligations under such Notes and this Indenture insofar as such Notes are concerned (and the Trustee, at the expense of the Company, shall execute such instruments reasonably requested by the Company acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (i) the rights of Holders of such Outstanding Notes to receive, solely from the trust fund described in Section 1304 and as more fully set forth in this Article Thirteen, payments in respect of the principal of (and premium, if any) and interest on such Notes when such payments are due; (ii) the obligations of the Company and the Trustee with respect to such Notes under Sections 304, 305, 310, 1002 and 1003; (iii) the rights, powers, trusts and immunities of the Trustee hereunder; and (iv) this Article Thirteen. The Company may exercise its option under this Section 1302 notwithstanding the prior exercise of its option under Section 1303 with respect to such Note.

Section 1303. Covenant Defeasance. Upon the Company's exercise of the above option applicable to this Section 1303, the Company shall be released from its obligations under Sections 1004 through 1006 and Sections 1008 through 1018 with respect to such Outstanding Notes on and after the date the conditions set forth in Section 1304 are satisfied (hereinafter, "*Covenant Defeasance*"), and such Notes shall thereafter be deemed to be not "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with any such covenant, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such Covenant Defeasance means that, with respect to such Outstanding Notes, the Company may omit to comply with, and shall have no liability in respect of, any term, condition or limitation set forth in any such Section, whether directly or indirectly, by reason of any reference elsewhere herein to any such Section or by reason of reference in any such Section to any other provision herein or in any other document and such omission to comply shall not constitute a default or an Event of Default under Section 501(4) or otherwise, as the case may be, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 1304. Conditions to Legal Defeasance or Covenant Defeasance. The following shall be the conditions to application of either Section 1302 or Section 1303 to the Outstanding Notes:

(1) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another Trustee satisfying the requirements of Section 608 who shall agree to comply with the provisions of this Article Thirteen applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Notes, (1) an amount in U.S. Dollars, or (2) Government Obligations applicable to such Notes which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment of principal of (and premium, if any) and interest, if any, on such Notes, money in an amount, or (3) a combination thereof, in any case, in an amount, sufficient, without consideration of any reinvestment of such principal and interest, in the opinion of a nationally-recognized firm of independent public accountants, investment bank or appraisal firm expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, the principal of (and premium, if any) and interest on such Outstanding Notes on the Stated Maturity of such principal (or premium, if any) or installment of interest or the applicable Redemption Date, as the case may be.

(2) Such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture.

(3) No Event of Default or Default shall have occurred and be continuing on the date of such deposit, and, solely in the case of Legal Defeasance under Section 1302, no Event of Default or Default under clause (6) or (7) of Section 501 shall have occurred and be continuing at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition to Legal Defeasance under Section 1302 shall not be deemed satisfied until the expiration of such period).

(4) In the case of Legal Defeasance pursuant to Section 1302, the Company shall have delivered to the Trustee an opinion of independent counsel in the United States, appointed by the Company at its expense, stating that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (y) since the date of this Indenture there has been a change in applicable federal income tax law, in either case to the effect that, and based thereon such opinion of independent counsel shall confirm that, the beneficial owners of such Outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred; or, in the case of Covenant Defeasance pursuant to Section 1303, the Company shall have delivered to the Trustee an opinion of independent counsel in the United States to the effect that the beneficial owners of such Outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred.

(5) The Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent to the Legal Defeasance or Covenant Defeasance, as the case may be, under this Indenture have been complied with.

Section 1305. Deposited Money and Government Obligations to Be Held in Trust; Other Miscellaneous Provisions. All cash and Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 1305, the "Qualifying Trustee") pursuant to Section 1304 in respect of the Outstanding Notes shall be held in trust and applied by the Qualifying Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Qualifying Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, but such money or Government Obligations need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Qualifying Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 1304 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the Outstanding Notes.

Anything in this Article Thirteen to the contrary notwithstanding, the Qualifying Trustee shall deliver or pay to the Company from time to time upon Company Request any money or Government Obligations held by it as provided in Section 1304 which, in the opinion of a nationally-recognized firm of independent public accountants, expressed in a written certification thereof delivered to the Qualifying Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance, as applicable, in accordance with this Article Thirteen.

Section 1306. Reinstatement. If the Trustee or any Paying Agent is unable to apply any money or Government Obligations in accordance with Section 1305 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Outstanding Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 1302 or 1303, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 1305; provided, however, that (a) if the Company makes any payment of principal of (or premium, if any) or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Obligations held by the Trustee or Paying Agent and (b) unless otherwise required by any legal proceeding or any other order or judgment of any court or governmental authority, the Trustee or Paying Agent (if other than the Company) shall return all such money and Government Obligations to the Company promptly after receiving a written request therefor at any time, if such reinstatement of the Company's obligations has occurred and continues to be in effect.

Section 1307. Repayment to Company. Subject to any laws relating to abandoned property, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

ARBOR REALTY TRUST, INC.

By: /s/ Paul Elenio

Name: Paul Elenio

Title: Chief Financial Officer

[Signature Page to Indenture]

UMB BANK, NA,
as Trustee

By: /s/ Mauri J. Cowen
Name: Mauri J. Cowen
Title: Sr. Vice President

[Signature Page to Indenture]

PROVISIONS RELATING TO INITIAL NOTES AND EXCHANGE NOTES

1. Definitions.1.1 Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

“Applicable Procedures” means, with respect to any transfer or transaction involving a Global Note or beneficial interest therein, the rules and procedures of the Depository for such Global Note, in each case to the extent applicable to such transaction and as in effect from time to time.

“Certificated Note” means any Note (other than a Global Note) bearing, if required, the appropriate legends set forth in Section 2.3(d) of this Appendix.

“Depository” means The Depository Trust Company, its nominees and their respective successors.

“Exchange Notes” means 5.00% Senior Notes due 2026 issued pursuant to the Indenture in connection with a Registered Exchange Offer pursuant to a Registration Rights Agreement.

“Euroclear” means Euroclear Bank SA/NV, as operator of the Euroclear systems Clearance System or any successor securities clearing agency.

“IAI” means an institution that is an “accredited investor” as described in Rule 501(a)(1), (2), (3) or (7) under the Securities Act and is not a QIB.

“Initial Notes” means \$175,000,000 aggregate principal amount of 5.00% Senior Notes due 2026 issued on the Issue Date.

“Notes” means the Initial Notes and the Exchange Notes, treated as a single series.

“Notes Custodian” means the custodian with respect to a Global Note (as appointed by the Depository), or any successor Person thereto, and shall initially be the Trustee.

“Purchase Agreement” means the Purchase Agreement, dated April 30, 2021, among the Company and the purchasers party thereto.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Registered Exchange Offer” means the offer by the Company, pursuant to a Registration Rights Agreement, to Holders of Initial Notes, to issue and deliver to such Holders, in exchange for the Initial Notes, a like aggregate principal amount of Exchange Notes registered under the Securities Act.

“Registration Rights Agreement” means the Registration Rights Agreement, dated April 30, 2021, between the Company and the purchasers party thereto.

“Restricted Global Note” means any Note in global form that is required to bear the Restricted Notes Legend.

“Rule 144A Notes” means all Notes offered and sold to QIBs in reliance on Rule 144A.

“Shelf Registration Statement” has the meaning given to such term in the applicable Registration Rights Agreement.

“Transfer Restricted Notes” means Notes that bear or are required to bear the Restricted Notes Legend.

“Unrestricted Global Note” means any Note in global form that does not bear or is not required to bear the Restricted Notes Legend.

1.2 Other Definitions.

<u>Term</u>	<u>Defined in Section:</u>
“Agent Members”	2.1(b)
“Certificated Notes Legend”	2.3(d)
“Global Notes”	2.1(a)
“Global Notes Legend”	2.3(d)
“IAI Global Note”	2.1(a)
“Indenture”	1.3
“OID Legend”	2.3(d)
“Restricted Notes Legend”	2.3(d)
“Rule 144A”	2.1(a)
“Rule 144A Global Note”	2.1(a)

1.3 Capitalized terms used in this Appendix, but not defined in this Appendix, have the meanings ascribed to such terms in the Indenture to which this Appendix is attached (the “Indenture”).

2. The Notes.

2.1 (a) Form and Dating. The Initial Notes shall be offered and sold by the Company pursuant to a Purchase Agreement to (i) QIBs in reliance on Rule 144A under the Securities Act (“Rule 144A”) and (ii) IAIs in reliance on an applicable exemption from the registration requirements of the Securities Act. Initial Notes may thereafter be transferred to, among others, QIBs and IAIs subject to the restrictions on transfer set forth herein. Initial Notes initially sold pursuant to Rule 144A shall be issued initially in the form of one or more permanent global notes in definitive, fully registered form (collectively, the “Rule 144A Global Note”); and Initial Notes initially sold to IAIs shall be issued initially in the form of one or more permanent global notes in definitive, fully registered form (collectively, the “IAI Global Note”), in each case without interest coupons and with the Global Notes Legend, the applicable Restricted Notes Legend and, if applicable, the OID Legend set forth in Section 2.3(d) of this Appendix, which shall be deposited on behalf of the purchasers of the Initial Notes represented thereby with the Notes Custodian and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and upon receipt of a Company Order authenticated by the Trustee as provided in the Indenture.

The Rule 144A Global Note and the IAI Global Note are collectively referred to herein as “Global Notes.” The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided.

(b) Book-Entry Provisions. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Company shall execute and upon receipt of a Company Order the Trustee shall, in accordance with this Section 2.1(b), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository or the nominee of the Depository and (b) shall be delivered by the Trustee to the Depository or pursuant to the Depository’s instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in, the Depository (“Agent Members”) shall have no rights under the Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a Holder of a beneficial interest in any Global Note.

(c) Certificated Notes. Except as provided in Section 2.3 or 2.4, owners of beneficial interests in Global Notes shall not be entitled to receive physical delivery of Certificated Notes.

2.2 Authentication. The Trustee shall upon receipt of a Company Order (as specified in Section 202 of the Indenture) promptly authenticate and deliver: (1) on the Issue Date, 5.00% Senior Notes due 2026 in an aggregate principal amount of \$175,000,000; and (2) Exchange Notes for issue only in a Registered Exchange Offer pursuant to a Registration Rights Agreement, and in exchange for a like principal amount of Initial Notes. Such Company Order shall specify the aggregate principal amount of the Notes to be authenticated and the date on which the original issue of such Notes is to be authenticated.

2.3 Transfer and Exchange.

(a) Transfer and Exchange of Certificated Notes. When Certificated Notes are presented to the Note Registrar with a request:

(x) to register the transfer of such Certificated Notes; or

(y) to exchange such Certificated Notes for an equal principal amount of Certificated Notes of other authorized denominations,

the Note Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; provided, however, that the Certificated Notes surrendered for transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Note Registrar, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(ii) in the case of Transfer Restricted Notes, are being transferred or exchanged pursuant to an effective registration statement under the Securities Act or pursuant to Section 2.3(b) of this Appendix or otherwise in accordance with the Restricted Notes Legend, and are accompanied by a certification from the transferor in the form in Exhibit 2 to Appendix A for exchange or registration of transfers and, as applicable, delivery of such legal opinions, certifications and other information as may be requested pursuant thereto.

(b) Restrictions on Transfer of a Certificated Note for a Beneficial Interest in a Global Note. A Certificated Note may not be exchanged for a beneficial interest in a Global Note except upon satisfaction of the requirements set forth below. Upon receipt by the Trustee of a Certificated Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(i) a certification from the transferor in the form in Exhibit 2 to Appendix A for exchange or registration of transfers and, as applicable, delivery of such legal opinions, certifications and other information as may be requested pursuant thereto; and

(ii) written instructions directing the Trustee to make, or to direct the Notes Custodian to make, an adjustment on its books and records with respect to such Global Note to reflect an increase in the aggregate principal amount of the Notes represented by the Global Note, such instructions to contain information regarding the Depository account to be credited with such increase,

then the Trustee shall cancel such Certificated Note and cause, or direct the Notes Custodian to cause, in accordance with the standing instructions and procedures existing between the Depository and the Notes Custodian, the aggregate principal amount of Notes represented by the Global Note to be increased by the aggregate principal amount of the Certificated Note to be exchanged and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Global Note equal to the principal amount of the Certificated Note so canceled. If the Global Note is not then Outstanding, the Company shall issue and the Trustee shall authenticate, upon receipt of a Company Order, a new Global Note in the appropriate principal amount.

(c) Transfer and Exchange of Global Notes.

(i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with the Indenture (including applicable restrictions on transfer set forth herein, if any) and the procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Note Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Note Registrar shall, in accordance with such instructions, instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(ii) If the proposed transfer is a transfer of a beneficial interest in one Global Note to a beneficial interest in another Global Note, the Note Registrar shall reflect on its books and records the date and an increase in the principal amount of the Global Note to which such interest is being transferred in an amount equal to the principal amount of the interest to be so transferred, and the Note Registrar shall reflect on its books and records the date and a corresponding decrease in the principal amount of the Global Note from which such interest is being transferred.

(iii) Notwithstanding any other provisions of this Appendix, a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(iv) Transfers by an owner of a beneficial interest in a Rule 144A Global Note or an IAI Global Note to a transferee who takes delivery of such interest through another Transfer Restricted Note shall be made in accordance with the Applicable Procedures and the Restricted Notes Legend and only upon receipt by the Trustee of a certification from the transferor in the form provided in Exhibit 2 to Appendix A for exchange or registration of transfers and, as applicable, delivery of such legal opinions, certifications and other information as may be requested pursuant thereto. In addition, in the case of a transfer of a beneficial interest in a Rule 144A Global Note to an interest in an IAI Global Note, the transferee must furnish a signed letter substantially in the form of Exhibit 3 to Appendix A to the Trustee.

(v) Beneficial interests in a Transfer Restricted Note that is a Rule 144A Global Note or an IAI Global Note may be exchanged for beneficial interests in an Unrestricted Global Note if the Holder certifies in writing to the Note Registrar that its request for such exchange is in respect of a transfer made in reliance on Rule 144 (such certification to be in the form set forth in Exhibit 2 to Appendix A) and/or upon delivery of such legal opinions, certifications and other information as the Company may reasonably request.

(vi) If no Unrestricted Global Note is Outstanding at the time of a transfer contemplated by the preceding clause (v), the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the front of an Officer's Certificate, a new Unrestricted Global Note in the appropriate principal amount.

(vii) In the event that a Global Note is exchanged for Certificated Notes pursuant to Section 2.4 of this Appendix, prior to the consummation of a Registered Exchange Offer or the effectiveness of a Shelf Registration Statement with respect to such Notes, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of this Section 2.3 (including the certification requirements set forth on the reverse of the Initial Notes (as set forth in Exhibit 2 to Appendix A hereto) intended to ensure that such transfers comply with Rule 144A or another applicable exemption under the Securities Act, as the case may be) and such other procedures as may from time to time be adopted by the Company.

(d) Legends.

(i) Except as permitted by the following paragraphs (ii), (iii) and (iv), each Note certificate evidencing the Global Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form (the “Restricted Notes Legend”):

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS ONE YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT (“RULE 144A”), TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) TO AN INSTITUTIONAL “ACCREDITED INVESTOR” WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT THAT IS NOT A QUALIFIED INSTITUTIONAL BUYER AND THAT IS PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ANOTHER INSTITUTIONAL ACCREDITED INVESTOR, IN EACH CASE IN A MINIMUM PRINCIPAL AMOUNT OF SECURITIES OF \$250,000 OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY’S AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

BY ITS ACQUISITION OF THIS SECURITY, THE HOLDER HEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO ACQUIRE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OF A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, A GOVERNMENTAL PLAN AS DEFINED IN SECTION 3(32) OF ERISA, A CHURCH PLAN AS DEFINED IN SECTION 3(33) OF ERISA THAT HAS NOT MADE AN ELECTION UNDER SECTION 410(D) OF THE CODE, OR A NON-U.S. PLAN THAT IS SUBJECT TO PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER SIMILAR LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE (“SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, OR (2) THE ACQUISITION, HOLDING AND DISPOSITION OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS.

Each Certificated Note shall also bear the following additional legend (the “Certificated Notes Legend”):

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE NOTE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

Each Global Note shall bear the following additional legend (the “Global Notes Legend”):

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

If applicable, each Note shall also bear the following additional legend (the "OID Legend"):

THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THIS SECURITY WAS ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), AND THIS LEGEND IS REQUIRED BY SECTION 1275(C) OF THE CODE. HOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF OID, THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY RELATING TO THE SECURITIES BY CONTACTING THE COMPANY AT 333 EARLE OVINGTON BOULEVARD, SUITE 900, UNIONDALE, NEW YORK.

(ii) Upon any sale or transfer of a Transfer Restricted Note (including any Transfer Restricted Note represented by a Global Note) pursuant to Rule 144 under the Securities Act, the Note Registrar shall permit the transferee thereof to exchange such Transfer Restricted Note for a Certificated Note that does not bear the Restricted Notes Legend and rescind any restriction on the transfer of such Transfer Restricted Note, if the transferor thereof certifies in writing to the Note Registrar that such sale or transfer was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note).

(iii) After a transfer of any Initial Note pursuant to and during the period of the effectiveness of a Shelf Registration Statement, all requirements pertaining to legends on such Initial Note shall cease to apply, and a Certificated Note or an Unrestricted Global Note, in each case without the Restricted Notes Legend, shall be available to the transferee of the Holder of such Initial Note upon exchange of such transferring Holder's Certificated Note or directions to transfer such Holder's interest in a Restricted Global Note, as applicable.

(iv) Upon the consummation of a Registered Exchange Offer, Exchange Notes in certificated or global form, in each case without the Restricted Notes Legend, shall be available to Holders that exchange their Initial Notes in such Registered Exchange Offer.

(e) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a Global Note have been exchanged for Certificated Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Depository for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for Certificated Notes, redeemed, purchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

(f) No Obligation on the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered holders thereof (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the Applicable Procedures. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under the Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of the Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.4 Certificated Notes.

(a) A Global Note deposited with the Depository or with the Trustee as Notes Custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of Certificated Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 hereof and if: (i) the Depository notifies the Company that it is unwilling or unable to continue as depository for such Global Note and the Depository fails to appoint a successor depository within 90 days; (ii) the Depository ceases to be registered as a “clearing agency” under the Exchange Act, and in the case of either clause (i) or clause (ii), a successor depository is not appointed by the Company within 90 days; or (iii) the Company, at its option, notifies the Trustee that it elects to cause the issuance of Certificated Notes and any Agent Member requests a Certificated Note in accordance with the Depository’s procedures.

(b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section 2.4 shall be surrendered by the Depository to the Trustee located at its principal Corporate Trust Office to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations. Any portion of a Global Note transferred pursuant to this Section 2.4 shall be executed, authenticated and delivered only in minimum denominations of \$1,000 principal amount and any integral multiple of \$1,000 in excess thereof and registered in such names as the Depository shall direct. Any Certificated Note delivered in exchange for an interest in the Transfer Restricted Note shall, except as otherwise provided by Section 2.3(e) hereof, bear the applicable Restricted Notes Legend, the Certificated Notes Legend and, if applicable, the OID Legend.

(c) Subject to the provisions of Section 2.4(b) hereof, the Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under the Indenture or the Notes.

(d) In the event of the occurrence of one of the events specified in Section 2.4(a) hereof, the Company shall promptly make available to the Trustee a reasonable supply of Certificated Notes in definitive, fully registered form without interest coupons. In the event that such Certificated Notes are not issued, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to the Indenture, including pursuant to Section 507, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner’s Notes as if such Certificated Notes had been issued.

[FORM OF FACE OF INITIAL NOTE]

[Insert, as applicable, the Global Notes Legend, Restricted Notes Legend, Certificated Notes Legend and OID Legend]

No. []

\$()

5.00% Senior Notes due 2026

QIB CUSIP No. 038923 AU2
QIB ISIN No. US038923AU24
AI CUSIP No. 038923 AV0
AI ISIN No. US038923AV07

Arbor Realty Trust, Inc., a Maryland corporation, promises to pay to _____, or registered assigns, the principal sum of _____, U.S. Dollars on April 30, 2026 [or such greater or lesser amount as indicated in the attached Schedule of Increases or Decreases in Global Note]*.

Interest Payment Dates: April 30 and October 30.

Record Dates: April 15 and October 15.

Additional provisions of this Note are set forth on the other side of this Note.

ARBOR REALTY TRUST, INC.

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

UMB Bank, NA, as Trustee
certifies that this is one of the Notes
referred to in the Indenture.

By: _____
Authorized Signatory

Dated:

* [To be added if the Note is to be issued in global form.]

5.00% Senior Notes due 2026

Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Indenture.

1. Principal and Interest

Arbor Realty Trust, Inc. (the “Company”) shall pay the principal of this Note on April 30, 2026.

The Company promises to pay interest (including Additional Interest, if any) on the principal amount of this Note on each Interest Payment Date, as set forth below, at the rate set forth below (subject to adjustment as provided in the Registration Rights Agreement referred to below).

Interest on the Notes shall accrue at the rate of 5.00% per annum and be payable in cash. Such rate is subject to adjustment as of the first day of any Six-Month Interest Period based on changes in the ratings of the Notes as provided in Section 301 of the Indenture and, to the extent permitted by law, interest shall accrue (a) on any overdue payment of interest and (b) during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any premium (whether such premium is due and payable pursuant to Section 501 or Section 1101 of the Indenture), at a rate per annum from time to time equal to the Default Rate, payable semi-annually as aforesaid (or, at the option of the registered Holder hereof, on demand).

Interest shall be payable semi-annually in arrears (to the Holders of the Notes at the close of business on April 15 or October 15 immediately preceding the Interest Payment Date) on each Interest Payment Date, commencing October 30, 2021.

The Holder of this Note is entitled to the benefits of the Registration Rights Agreement, dated April 30, 2021, among the Company, and the purchasers party thereto (the “Registration Rights Agreement”), including with respect to Additional Interest.

Interest on this Note shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from April 30, 2021. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. Method of Payment.

The Company shall pay interest (except Defaulted Interest) on the principal amount of the Notes on each April 30 and October 30 to the Persons who are Holders (as reflected in the Note Register at the close of business on April 15 and October 15 immediately preceding the Interest Payment Date), in each case, even if the Note is transferred or exchanged after such Regular Record Date, except as provided in Section 306(b) of the Indenture with respect to Defaulted Interest; provided that with respect to the payment of principal, the Company shall make payment to the Holder that surrenders this Note to any Paying Agent on or after April 30, 2026.

The Company shall pay principal (and premium, if any) and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal (and premium, if any) and interest by its check payable in such money. The Company may pay interest on the Notes by check sent to the Holders at their respective addresses set forth in the Note Register; provided that all payments of principal (and premium, if any) and interest with respect to Notes represented by one or more Global Notes registered in the name of or held by the Depository or its nominee shall be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof. If a payment date is a Legal Holiday, payment may be made on the next succeeding day that is a Business Day as if made on the date that the payment was due, and no interest shall accrue for the intervening period.

3. Paying Agent and Note Registrar.

Initially, UMB Bank, NA (the “Trustee”) shall act as Paying Agent and Note Registrar. The Company may change any Paying Agent or Note Registrar upon written notice thereto and without notice to the Holders. The Company may act as Paying Agent, Note Registrar or co-registrar.

4. Indenture.

The Company issued the Notes under an Indenture dated as of April 30, 2021 (the “Indenture”) between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act. The Notes are subject to all such terms, and Holders are referred to the Indenture and the Trust Indenture Act for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are unsecured senior obligations of the Company. The Indenture limits the aggregate principal amount of the Notes to \$175,000,000.

5. Mandatory Redemption.

The Company is not required to make any mandatory redemption or sinking fund payments with respect to the Notes.

6. Optional Redemption; Change of Control Offer.

(1) At any time prior to the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days’ prior notice to the Holders, at a Redemption Price equal to the greater of (i) 100% of the aggregate principal amount of the Notes to be redeemed or (ii) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes to be redeemed that would have been due if the Notes matured on the Par Call Date, discounted to the Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 50 basis points, plus, in each case, accrued and unpaid interest, if any, to, but excluding, the Redemption Date. Notwithstanding the foregoing, installments of interest on Notes that are due and payable on Interest Payment Dates falling on or prior to the relevant Redemption Date will be payable to the Holders of such Notes (or one or more Predecessor Notes) registered as such at the close of business on the relevant record dates according to their terms and the provisions of the Indenture. Any such redemption shall be effected in accordance with the terms and conditions set forth in the Indenture. From and after the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days’ prior notice to the Holders, at a Redemption Price equal to 100% of the aggregate principal amount of Notes to be redeemed, plus accrued and unpaid interest, if any, thereon to, but excluding, the Redemption Date, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date.

(2) Upon the occurrence of a Change of Control Triggering Event, the Holder shall have the right to require the Company to purchase all or any part (equal to \$1,000 or an integral multiple of \$1,000 in excess thereof) of this Note, pursuant to a Change of Control Offer made in accordance with Section 1009 of the Indenture, at a purchase price in cash equal to 101% of the principal amount hereof, plus accrued and unpaid interest hereon, if any, up to, but excluding, the Change of Control Payment Date (subject to the right of the holder of record of this Note on the relevant record date to receive interest on the relevant Interest Payment Date as provided in Section 1009 of the Indenture), except to the extent that the Company shall have exercised its right to redeem this Security pursuant to the preceding paragraph (1).

(3) If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw their Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company shall have the right, upon not less than 15 nor more than 60 days’ prior notice, given not more than 30 days following such purchase pursuant to such Change of Control Offer, to redeem this Note and all other Notes that remain Outstanding following such purchase at a Redemption Price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, up to, but excluding, the Redemption Date (subject to the right of the holder of record of this Note on the relevant record date to receive interest on the relevant Interest Payment Date as provided in Section 1009 of the Indenture).

7. Denominations; Transfer; Exchange.

The Notes are in registered form without coupons in minimum denominations of \$1,000 principal amount and integral multiples of \$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Note Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any transfer tax or other similar governmental charges payable in connection therewith. The Company shall not be required, and without the prior written consent of the Company, the Note Registrar shall not be required, to register the transfer of or exchange of any Note (i) during a period beginning at the opening of business 15 days before provision of a notice of redemption of Notes and ending at the close of business on the day of such provision, (ii) selected for redemption in whole or in part and (iii) beginning at the opening of business on any record date and ending on the close of business on the related Interest Payment Date.

8. Persons Deemed Owners.

A registered Holder shall be treated as the owner of a Note for all purposes.

9. Unclaimed Money.

Subject to applicable laws relating to abandoned property, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (or premium, if any) or interest on any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

10. Defeasance Prior to Redemption or Maturity.

Subject to satisfaction of conditions set forth in the Indenture, the Company at any time may terminate some or all of its obligations under the Notes and the Indenture if the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. Dollars, Government Obligations or a combination thereof, in such amounts as shall be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption, as the case may be.

11. Amendment; Supplement; Waiver.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes issued under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding affected thereby. The Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and its consequences. Any such consent or waiver shall be binding upon all future Holders of this Note and of any Notes issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note. The Indenture also permits the Company and the Trustee, without notice to or consent of the Holders of the Notes, to enter into one or more indentures supplemental thereto for the purposes specified in the Indenture.

12. Restrictive Covenants.

The Indenture contains certain covenants, including covenants with respect to the following matters: (i) the maintenance of certain financial ratios; and (ii) merger, consolidation or conveyance of all or substantially all properties and assets. Within 120 days after the end of each fiscal year, the Company must certify to the Trustee as to its compliance with such covenants.

13. Successor Persons.

When a successor Person or other entity assumes all the obligations of its predecessor under the Notes and the Indenture, the predecessor Person shall be released from those obligations, subject to certain exceptions and conditions.

14. Remedies for Events of Default.

If an Event of Default with respect to the Notes in Section 501(6) or 501(7) of the Indenture has occurred, all Notes then Outstanding shall automatically become due and payable. If any other Event of Default has occurred and is continuing, then either the Trustee or the Holders of at least 25% of the aggregate principal amount of the Outstanding Notes may declare the principal of all the Notes, premium, if any, and accrued and unpaid interest (including interest accruing at the Default Rate), if any, thereon, to be due and payable immediately as provided in Section 502 of the Indenture. If an Event of Default under Section 501(1) or (2) of the Indenture with respect to the Notes has occurred and is continuing, any Holder or Holders of Notes at the time Outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company and the Trustee, declare the Notes held by it or them to be immediately due and payable. At any time after the Notes have been accelerated, but before a judgment or decree based on acceleration has been obtained, the Holders of a majority of the aggregate principal amount of Outstanding Notes may, under certain circumstances provided in the Indenture, rescind and annul such acceleration.

15. Trustee Dealings with Company.

The Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311, may otherwise deal with the Company with the same rights it would have if it were not the Trustee; provided, however, that if it acquires any conflicting interest and a default for purposes of the TIA has occurred and is then continuing, it must eliminate such conflict within 90 days, apply to the SEC for permission to continue, or resign.

16. Authentication.

This Note shall not be valid until an authorized signatory of the Trustee signs the certificate of authentication on the other side of this Note.

17. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

18. CUSIP and ISIN Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes and has directed the Trustee to use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

19. Holder's Compliance with the Registration Rights Agreement.

Each Holder of a Note, by acceptance hereof, acknowledges and agrees to the provisions of the Registration Rights Agreement dated April 30, 2021, including the obligations of the Holders with respect to a registration and the indemnification of the Company to the extent provided therein.

20. Governing Law.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture and the Registration Rights Agreement. Requests may be made to Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York; Attention Chief Financial Officer.

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian

Option of Holder to Elect Purchase

If you want to elect to have this Security purchased by the Company pursuant to Section 1009 of the Indenture, check the box below:

If you want to elect to have only part of the Security purchased by the Company pursuant to Section 1009 of the Indenture, state the amount you elect to have purchased:

\$ _____

Date: _____

Your Signature:

(Sign exactly as your name appears on the face of this Security)

Tax Identification No.:

Signature Guarantee: ** _____

** Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

ASSIGNMENT/TRANSFER FORM

To assign and transfer this Note, fill in the form below:

Reference is hereby made to the Indenture, dated as of April 30, 2021, between Arbor Realty Trust, Inc. and UMB Bank, NA (the "Indenture"). Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

I or we assign and transfer this Note to

_____ (Print or type assignee's name, address and zip code)

_____ (Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company.

The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

In connection with any transfer of any of the Notes evidenced by this certificate occurring prior to the applicable Resale Restriction Termination Date, the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

- (1) to the Company or a subsidiary thereof; or
- (2) to the Note Registrar for registration in the name of the Holder, without transfer; or
- (3) pursuant to an effective registration statement under the Securities Act; or
- (4) inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act; or
- (5) to an institutional "accredited investor" (as defined in Rule 501 (a)(1), (2), (3) or (7) under the Securities Act) that has furnished to the Trustee a signed letter containing certain representations and agreements; or
- (6) pursuant to the exemption from registration provided by Rule 144 under the Securities Act.

Unless one of the boxes is checked, the Trustee shall refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered holder thereof; provided, however, that if box (6) is checked, the Trustee shall be entitled to require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, such as the exemption provided by Rule 144 under such Act.

Signature _____

Signature Guarantee: _____

Signature must be guaranteed Signature

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Note Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Exchange Act.

TO BE COMPLETED BY PURCHASER IF BOX (4) ABOVE IS CHECKED

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Date: _____

Notice: To be executed by an executive officer

FORM OF
TRANSFeree LETTER OF REPRESENTATION

Arbor Realty Trust, Inc.

[Address]
Fax No.: (____) _____
Email: _____@____.com
Attention; [_____]

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of April 30, 2021, between Arbor Realty Trust, Inc. and UMB Bank, NA (the "Indenture"). Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This certificate is delivered to request a transfer of \$[_____] principal amount of the 5.00% Senior Notes due 2026 (the "Notes") of Arbor Realty Trust, Inc. (the "Company").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____

Address: _____

Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account or for the account of such an institutional "accredited investor" at least \$250,000 principal amount of the Notes, and we are acquiring the Notes for investment purposes and not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the Resale Restriction Termination Date referred to on the Notes only in accordance with the Restricted Notes Legend (as such term is defined in Appendix A to the Indenture) printed on the Notes and any applicable securities laws of any state of the United States. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If we propose to make any resale or other transfer of the Notes to another institutional "accredited investor" prior to the Resale Restriction Termination Date, we shall deliver a letter from the transferee substantially in the form of this letter to the Company and the Trustee, which shall provide, among other things, that the transferee is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act and that it is acquiring at least \$250,000 principal amount of such Notes for investment purposes and not for distribution in violation of the Securities Act.

3. We acknowledge that the Company and the Trustee reserve the right with respect to any offer, sale or other transfer of the Notes described in the Restricted Notes Legend prior to the Resale Restriction Termination Date to require the delivery of an opinion of counsel, certifications and/or other information satisfactory to the Company and the Trustee.

TRANSFeree: _____,

By: _____

[FORM OF FACE OF EXCHANGE NOTE]

[Insert, as applicable, the Global Notes Legend and OID Legend]

No. [•]

5.00% Senior Notes due 2026

\$[•]

CUSIP No. [•]

ISIN No. [•]

Arbor Realty Trust, Inc., a Maryland corporation, promises to pay to _____, or registered assigns, the principal sum of _____, U.S. Dollars on April 30, 2026 [or such greater or lesser amount as indicated in the attached Schedule of Increases or Decreases in Global Note]*.

Interest Payment Dates: April 30 and October 30.

Record Dates: April 15 and October 15.

Additional provisions of this Note are set forth on the other side of this Note.

ARBOR REALTY TRUST, INC.

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

UMB Bank, NA, as Trustee
certifies that this is one of the Notes
referred to in the Indenture.

By: _____
Authorized Signatory

Dated:

* [To be added if the Note is to be issued in global form.]

5.00% Senior Notes due 2026

Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Indenture.

1. Principal and Interest.

Arbor Realty Trust, Inc. (the “Company”) shall pay the principal of this Note on April 30, 2026.

The Company promises to pay interest (including Additional Interest, if any) on the principal amount of this Note on each Interest Payment Date, as set forth below, at the rate set forth below (subject to adjustment as provided in the Registration Rights Agreement referred to below).

Interest on the Notes shall accrue at the rate of 5.00% per annum and be payable in cash. Such rate is subject to adjustment as of the first day of any Six-Month Interest Period based on changes in the ratings of the Notes as provided in Section 301 of the Indenture and, to the extent permitted by law, interest shall accrue (a) on any overdue payment of interest and (b) during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any premium (whether such premium is due and payable pursuant to Section 501 or Section 1101 of the Indenture), at a rate per annum from time to time equal to the Default Rate, payable semi-annually as aforesaid (or, at the option of the registered Holder hereof, on demand).

Interest shall be payable semi-annually in arrears (to the Holders of the Notes at the close of business on April 15 or October 15 immediately preceding the Interest Payment Date) on each Interest Payment Date, commencing October 30, 2021.

The Holder of this Note is entitled to the benefits of the Registration Rights Agreement, dated April 30, 2021, among the Company, and the purchasers party thereto (the “Registration Rights Agreement”), including with respect to Additional Interest.

Interest on this Note shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from April 30, 2021. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. Method of Payment.

The Company shall pay interest (except Defaulted Interest) on the principal amount of the Notes on each April 30 and October 30 to the Persons who are Holders (as reflected in the Note Register at the close of business on April 15 and October 15 immediately preceding the Interest Payment Date), in each case, even if the Note is transferred or exchanged after such Regular Record Date, except as provided in Section 306(b) of the Indenture with respect to Defaulted Interest; provided that, with respect to the payment of principal, the Company shall make payment to the Holder that surrenders this Note to any Paying Agent on or after April 30, 2026.

The Company shall pay principal (and premium, if any) and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal (and premium, if any) and interest by its check payable in such money. The Company may pay interest on the Notes by check sent to the Holders at their respective addresses set forth in the Note Register; provided that all payments of principal (and premium, if any) and interest with respect to Notes represented by one or more Global Notes registered in the name of or held by the Depository or its nominee shall be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof. If a payment date is a Legal Holiday, payment may be made on the next succeeding day that is a Business Day as if made on the date that the payment was due, and no interest shall accrue for the intervening period.

3. Paying Agent and Note Registrar.

Initially, UMB Bank, NA (the “Trustee”) shall act as Paying Agent and Note Registrar. The Company may change any Paying Agent or Note Registrar upon written notice thereto and without notice to the Holders. The Company may act as Paying Agent, Note Registrar or co-registrar.

4. Indenture.

The Company issued the Notes under an Indenture dated as of April 30, 2021 (the “Indenture”) between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act. The Notes are subject to all such terms, and Holders are referred to the Indenture and the Trust Indenture Act for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are unsecured senior obligations of the Company. The Indenture limits the aggregate principal amount of the Notes to \$175,000,000.

5. Mandatory Redemption.

The Company is not required to make any mandatory redemption or sinking fund payments with respect to the Notes.

6. Optional Redemption; Change of Control Offer.

(1) At any time prior to the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days’ prior notice to the Holders, at a Redemption Price equal to the greater of (i) 100% of the aggregate principal amount of the Notes to be redeemed or (ii) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes to be redeemed that would have been due if the Notes matured on the Par Call Date, discounted to the Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 50 basis points, plus, in each case, accrued and unpaid interest, if any, to, but excluding, the Redemption Date. Notwithstanding the foregoing, installments of interest on Notes that are due and payable on Interest Payment Dates falling on or prior to the relevant Redemption Date will be payable to the Holders of such Notes (or one or more Predecessor Notes) registered as such at the close of business on the relevant record dates according to their terms and the provisions of the Indenture. Any such redemption shall be effected in accordance with the terms and conditions set forth in the Indenture. From and after the Par Call Date, the Company may redeem the Notes, in whole or in part, at any time or from time to time, upon not less than 10 nor more than 60 days’ prior notice to the Holders, at a Redemption Price equal to 100% of the aggregate principal amount of Notes to be redeemed, plus accrued and unpaid interest, if any, thereon to, but excluding, the Redemption Date, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date.

(2) Upon the occurrence of a Change of Control Triggering Event, the Holder shall have the right to require the Company to purchase all or any part (equal to \$1,000 or an integral multiple of \$1,000 in excess thereof) of this Note, pursuant to a Change of Control Offer made in accordance with Section 1009 of the Indenture, at a purchase price in cash equal to 101% of the principal amount hereof, plus accrued and unpaid interest hereon, if any, up to, but excluding, the Change of Control Payment Date (subject to the right of the holder of record of this Note on the relevant record date to receive interest on the relevant Interest Payment Date as provided in Section 1009 of the Indenture), except to the extent that the Company shall have exercised its right to redeem this Security pursuant to the preceding paragraph (1).

(3) If Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw their Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Company shall have the right, upon not less than 15 nor more than 60 days’ prior notice, given not more than 30 days following such purchase pursuant to such Change of Control Offer, to redeem this Note and all other Notes that remain Outstanding following such purchase at a Redemption Price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, up to, but excluding, the Redemption Date (subject to the right of the holder of record of this Note on the relevant record date to receive interest on the relevant Interest Payment Date as provided in Section 1009 of the Indenture).

7. Denominations; Transfer; Exchange.

The Notes are in registered form without coupons in minimum denominations of \$1,000 principal amount and integral multiples of \$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Note Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any transfer tax or other similar governmental charges payable in connection therewith. The Company shall not be required, and without the prior written consent of the Company, the Note Registrar shall not be required, to register the transfer of or exchange of any Note (i) during a period beginning at the opening of business 15 days before provision of a notice of redemption of Notes and ending at the close of business on the day of such provision, (ii) selected for redemption in whole or in part and (iii) beginning at the opening of business on any record date and ending on the close of business on the related Interest Payment Date.

8. Persons Deemed Owners.

A registered Holder shall be treated as the owner of a Note for all purposes.

9. Unclaimed Money.

Subject to applicable laws relating to abandoned property, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (or premium, if any) or interest on any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

10. Defeasance Prior to Redemption or Maturity.

Subject to satisfaction of conditions set forth in the Indenture, the Company at any time may terminate some or all of its obligations under the Notes and the Indenture if the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. Dollars, Government Obligations or a combination thereof, in such amounts as shall be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption, as the case may be.

11. Amendment; Supplement; Waiver.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes issued under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding affected thereby. The Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and its consequences. Any such consent or waiver shall be binding upon all future Holders of this Note and of any Notes issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note. The Indenture also permits the Company and the Trustee, without notice to or consent of the Holders of the Notes, to enter into one or more indentures supplemental thereto for the purposes specified in the Indenture.

12. Restrictive Covenants.

The Indenture contains certain covenants, including covenants with respect to the following matters: (i) the maintenance of certain financial ratios; and (ii) merger, consolidation or conveyance of all or substantially all properties and assets. Within 120 days after the end of each fiscal year, the Company must certify to the Trustee as to its compliance with such covenants.

13. Successor Persons.

When a successor Person or other entity assumes all the obligations of its predecessor under the Notes and the Indenture, the predecessor Person shall be released from those obligations, subject to certain exceptions and conditions.

14. Remedies for Events of Default.

If an Event of Default with respect to the Notes in Section 501(6) or 501(7) of the Indenture has occurred, all Notes then Outstanding shall automatically become due and payable. If any other Event of Default has occurred and is continuing, then either the Trustee or the Holders of at least 25% of the aggregate principal amount of the Outstanding Notes may declare the principal of all the Notes, premium, if any, and accrued and unpaid interest (including interest accruing at the Default Rate), if any, thereon, to be due and payable immediately as provided in Section 502 of the Indenture. If an Event of Default under Section 501(1) or (2) of the Indenture with respect to the Notes has occurred and is continuing, any Holder or Holders of Notes at the time Outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company and the Trustee, declare the Notes held by it or them to be immediately due and payable. At any time after the Notes have been accelerated, but before a judgment or decree based on acceleration has been obtained, the Holders of a majority of the aggregate principal amount of Outstanding Notes may, under certain circumstances provided in the Indenture, rescind and annul such acceleration.

15. Trustee Dealings with Company.

The Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311, may otherwise deal with the Company with the same rights it would have if it were not the Trustee; provided, however, that if it acquires any conflicting interest and a default for purposes of the TIA has occurred and is then continuing, it must eliminate such conflict within 90 days, apply to the SEC for permission to continue, or resign.

16. Authentication.

This Note shall not be valid until an authorized signatory of the Trustee signs the certificate of authentication on the other side of this Note.

17. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

18. CUSIP and ISIN Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes and has directed the Trustee to use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

19. Holder's Compliance with the Registration Rights Agreement.

Each Holder of a Note, by acceptance hereof, acknowledges and agrees to the provisions of the Registration Rights Agreement dated April 30, 2021, including the obligations of the Holders with respect to a registration and the indemnification of the Company to the extent provided therein.

20. Governing Law.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York; Attention Chief Financial Officer.

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian

** Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of Holder to Elect Purchase

If you want to elect to have this Security purchased by the Company pursuant to Section 1009 of the Indenture, check the box below:

If you want to elect to have only part of the Security purchased by the Company pursuant to Section 1009 of the Indenture, state the amount you elect to have purchased:

\$ _____

Date: _____

Your Signature:

(Sign exactly as your name appears on the face of this Security)

Tax Identification No.:

Signature Guarantee:** _____

ASSIGNMENT/TRANSFER FORM

To assign and transfer this Note, fill in the form below:

I or we assign and transfer this Note to _____

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Dated: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

[FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT SUBSIDIARY GUARANTORS]

SUPPLEMENTAL INDENTURE (this “Supplemental Indenture”), dated as of _____, among _____ (the “Guaranteeing Entity”), a subsidiary of Arbor Realty Trust, Inc., a Maryland corporation (the “Company”), the other Subsidiary Guarantors (as defined in the Indenture referred to herein) and UMB Bank, NA, a national banking association organized under the laws of the United States, as trustee (the “Trustee”).

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the “Indenture”), dated as of April 30, 2021 providing for the issuance of 5.00% Senior Notes due 2026 (the “Notes”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Entity shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Entity shall unconditionally guarantee all of the Company’s obligations under the Notes and the Indenture on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 901 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Entity and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Entity hereby agrees to provide an unconditional Subsidiary Guaranty on the terms and subject to the conditions set forth in the Subsidiary Guaranty and in the Indenture including but not limited to Article 12 thereof.
3. NO RECOURSE AGAINST OTHERS. No director, officer, employee, incorporator or stockholder of the Company or any Subsidiary Guarantor, as such, will have any liability for any obligations of the Company or the Subsidiary Guarantors under the Notes, the Indenture, the Subsidiary Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.
4. GOVERNING LAW; JURY TRIAL WAIVER. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York. When qualified under the TIA, this Supplemental Indenture shall be subject to the provisions of the Trust Indenture Act that are required to be part of any indenture qualified under such act and shall, to the extent applicable, be governed by such provisions.

EACH OF THE COMPANY, THE SUBSIDIARY GUARANTORS, THE HOLDERS AND THE TRUSTEE 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 SUPPLEMENTAL INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

5. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy (which may be provided via facsimile or other electronic transmission) shall be an original, but all of them together represent the same agreement.
6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Entity and the Company.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____, 20__

[GUARANTEEING ENTITY]

By: _____
Name:
Title:

[ARBOR REALTY TRUST, INC.]

By: _____
Name:
Title:

[EXISTING GUARANTORS]

By: _____
Name:
Title:

[UMB BANK, NA],
as Trustee

By: _____
Name:
Title:

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (the “**Agreement**”) is dated as of April 30, 2021 and is made by and among Arbor Realty Trust, Inc. a Maryland corporation (the “**Company**”), and the several purchasers of the Notes (as defined below) identified on the signature pages to the Purchase Agreement (as defined below) (collectively, the “**Purchasers**”).

This Agreement is made pursuant to the Note Purchase Agreement, dated April 30, 2021, by and among the Company and each of the Purchasers (the “**Purchase Agreement**”), which provides for the sale by the Company to the Purchasers of \$175,000,000 million aggregate principal amount of the Company’s 5.00% Senior Notes due 2026, which were issued on April 30, 2021 (the “**Notes**”). In order to induce each of the Purchasers to enter into the Purchase Agreement and in satisfaction of a condition to the Purchasers’ obligations thereunder, the Company has agreed to provide to the Purchasers and their respective direct and indirect transferees and assigns the registration rights set forth in this Agreement. The execution and delivery of this Agreement is a condition to the closing under the Purchase Agreement.

In consideration of the foregoing, the parties hereto agree as follows:

1. **Definitions.** As used in this Agreement, the following capitalized defined terms shall have the following meanings:

“**1933 Act**” shall mean the Securities Act of 1933, as amended from time to time, and the rules and regulations of the SEC promulgated thereunder.

“**1934 Act**” shall mean the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations of the SEC promulgated thereunder.

“**Additional Interest**” shall have the meaning set forth in Section 2(e) hereof.

“**Agreement**” shall have the meaning set forth in the preamble to this Agreement.

“**Closing Date**” shall mean April 30, 2021.

“**Company**” shall have the meaning set forth in the preamble to this Agreement and also includes the Company’s successors.

“**Depository**” shall mean The Depository Trust Company, or any other depository appointed by the Company, including any agent thereof; *provided, however*, that any such depository must at all times have an address in the Borough of Manhattan, the City of New York.

“**Event Date**” shall have the meaning set forth in Section 2(e).

“**Exchange Offer**” shall mean the exchange offer by the Company of Exchange Securities for Registrable Securities pursuant to Section 2(a) hereof.

“**Exchange Offer Registration**” shall mean a registration under the 1933 Act effected pursuant to Section 2(a) hereof.

“**Exchange Offer Registration Statement**” shall mean an exchange offer registration statement on Form S-4 (or, if applicable, on another appropriate form) covering the Registrable Securities, and all amendments and supplements to such registration statement, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated or deemed to be incorporated by reference therein.

“**Exchange Securities**” shall mean the 5.00% Senior Notes due 2026 issued by the Company under the Indenture containing terms substantially identical to the Notes (except that (i) interest thereon shall accrue from the last date to which interest has been paid or duly provided for on the Notes or, if no such interest has been paid or duly provided for, from the Interest Accrual Date, (ii) provisions relating to an increase in the stated rate of interest thereon upon the occurrence of a Registration Default shall be eliminated, (iii) the transfer restrictions and legends relating to restrictions on ownership and transfer thereof as a result of the issuance of the Notes without registration under the 1933 Act shall be eliminated, (iv) the minimum denominations thereof shall be \$1,000 and integral multiples of \$1,000 and (v) all of the Exchange Securities will be represented by one or more global Exchange Securities in book-entry form unless exchanged for Exchange Securities in definitive certificated form under the circumstances provided in the Indenture) to be offered to Holders of Registrable Securities in exchange for Registrable Securities pursuant to the Exchange Offer.

“**FINRA**” shall mean the Financial Industry Regulatory Authority, Inc.

“**Holder**s” shall mean (i) the Purchasers, for so long as they own any Registrable Securities, and each of their respective successors, assigns and direct and indirect transferees who become registered owners of Registrable Securities under the Indenture and (ii) each Participating Broker-Dealer that holds Exchange Securities for so long as such Participating Broker-Dealer is required to deliver a prospectus meeting the requirements of the 1933 Act in connection with any resale of such Exchange Securities.

“**Indenture**” shall mean the indenture, dated as of April 30, 2021 by and between the Company and UMB Bank, NA, as trustee, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

“**Interest Accrual Date**” means April 30, 2021.

“**Majority Holders**” shall mean the Holders of a majority of the aggregate principal amount of Registrable Securities outstanding, excluding Exchange Securities referred to in clause (ii) of the definition of “**Holder**s” above; *provided* that whenever the consent or approval of Holders of a specified percentage of Registrable Securities or Exchange Securities is required hereunder, Registrable Securities and Exchange Securities held by the Company or any of its affiliates (as such term is defined in Rule 405 under the 1933 Act) shall be disregarded in determining whether such consent or approval was given by the Holders of such required percentage.

“**Notes**” shall have the meaning set forth in the preamble to this Agreement.

“**Notifying Broker-Dealer**” shall have the meaning set forth in Section 3(f).

“**Participating Broker-Dealer**” shall have the meaning set forth in Section 3(f).

“**Person**” shall mean an individual, partnership, joint venture, limited liability company, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

“**Prospectus**” shall mean the prospectus included in a Registration Statement, including any preliminary prospectus, and any such prospectus as amended or supplemented by any prospectus supplement, including a prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by a Shelf Registration Statement, and by all other amendments and supplements to a prospectus, including post-effective amendments, and in each case including all material incorporated or deemed to be incorporated by reference therein.

“**Purchase Agreement**” shall have the meaning set forth in the preamble to this Agreement.

“**Purchasers**” shall have the meaning set forth in the preamble of this Agreement.

“Registrable Securities” shall mean the Notes; *provided, however*, that any Notes shall cease to be Registrable Securities when (i) a Registration Statement with respect to such Notes shall have been declared effective under the 1933 Act and such Notes shall have been disposed of pursuant to such Registration Statement, (ii) such Notes shall have been sold to the public pursuant to Rule 144 (or any similar provision then in force, but not Rule 144A) under the 1933 Act, or are eligible to be resold pursuant to Rule 144 without regard to the public information, volume or manner of sale requirements thereunder, (iii) such Notes shall have ceased to be outstanding, (iv) such Notes were eligible for exchange under an Exchange Offer Registration Statement that was declared effective under the 1933 Act but were not exchanged at the election of the Holder during the period the Exchange Offer was open, or (v) such Notes have been exchanged for Exchange Securities which have been registered pursuant to the Exchange Offer Registration Statement upon consummation of the Exchange Offer unless, in the case of any Exchange Securities referred to in this clause (v), such Exchange Securities are held by Participating Broker-Dealers or otherwise are not freely tradable by such Participating Broker-Dealers without any limitations or restrictions under the 1933 Act (in which case such Exchange Securities will be deemed to be Registrable Securities until such time as such Exchange Securities are sold to a purchaser in whose hands such Exchange Securities are freely tradeable without any limitations or restrictions under the 1933 Act).

“Registration Default” shall have the meaning set forth in Section 2(e).

“Registration Expenses” shall mean any and all reasonable expenses incident to performance of or compliance by the Company with this Agreement, including without limitation: (i) all SEC, stock exchange or FINRA registration and filing fees, (ii) all fees and expenses incurred in connection with compliance with state or other securities or blue sky laws and compliance with the rules of FINRA (including reasonable fees and disbursements of one counsel for any Holders in connection with qualification of any of the Exchange Securities or Registrable Securities under state or other securities or blue sky laws and any filing with and review by FINRA), (iii) all expenses of any Persons in preparing, printing and distributing any Registration Statement, any Prospectus, any amendments or supplements thereto, securities sales agreements, certificates representing the Notes or Exchange Securities and other documents relating to the performance of and compliance with this Agreement, (iv) all rating agency fees, (v) all fees and expenses incurred in connection with the listing, if any, of any of the Notes or Exchange Securities on any securities exchange or exchanges or on any quotation system, (vi) all fees and disbursements relating to the qualification of the Indenture under applicable securities laws, (vii) the fees and disbursements of counsel for the Company and the fees and expenses of independent public accountants for the Company or for any other Person, business or assets whose financial statements are included in any Registration Statement or Prospectus, including the expenses of any special audits or “cold comfort” letters required by or incident to such performance and compliance, and (viii) the fees and expenses of the Trustee, any registrar, any depository, any paying agent, any escrow agent or any custodian, in each case including fees and disbursements of their respective counsel.

“Registration Statement” shall mean any registration statement of the Company relating to any offering of the Exchange Securities or Registrable Securities pursuant to the provisions of this Agreement (including, without limitation, any Exchange Offer Registration Statement and any Shelf Registration Statement), and all amendments and supplements to any such Registration Statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated or deemed to be incorporated by reference therein.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Shelf Registration” shall mean a registration effected pursuant to Section 2(b) hereof.

“Shelf Registration Statement” shall mean a “shelf” registration statement of the Company pursuant to the provisions of Section 2(b) of this Agreement which covers all of the Registrable Securities, as the case may be, on an appropriate form under Rule 415 under the 1933 Act, or any similar rule that may be adopted by the SEC, and all amendments and supplements to such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all material incorporated or deemed to be incorporated by reference therein.

“TIA” shall mean the Trust Indenture Act of 1939, as amended from time to time, and the rules and regulations of the SEC promulgated thereunder.

“Trustee” shall mean the trustee with respect to the Notes and the Exchange Securities under the Indenture.

For purposes of this Agreement, (i) all references in this Agreement to any Registration Statement, preliminary prospectus or Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the SEC pursuant to its Electronic Data Gathering, Analysis and Retrieval system; (ii) all references in this Agreement to financial statements and schedules and other information which is “contained,” “included” or “stated” in any Registration Statement, preliminary prospectus or Prospectus (or other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information which is incorporated or deemed to be incorporated by reference in such Registration Statement, preliminary prospectus or Prospectus, as the case may be; (iii) all references in this Agreement to amendments or supplements to any Registration Statement, preliminary prospectus or Prospectus shall be deemed to mean and include the filing of any document under the 1934 Act which is incorporated or deemed to be incorporated by reference in such Registration Statement, preliminary prospectus or Prospectus, as the case may be; (iv) all references in this Agreement to Rule 144, Rule 144A, Rule 405 or Rule 415 under the 1933 Act, and all references to any sections or subsections thereof or terms defined therein, shall in each case include any successor provisions thereto; and (v) all references in this Agreement to days (but not to business days) shall mean calendar days.

2. Registration Under the 1933 Act.

(a) Exchange Offer Registration. The Company shall (A) use its commercially reasonable efforts to file with the SEC on or prior to the 60th day after the Closing Date an Exchange Offer Registration Statement covering the offer by the Company to the Holders to exchange all of the Registrable Securities for a like aggregate principal amount of Exchange Securities, (B) use its commercially reasonable efforts to cause such Exchange Offer Registration Statement to be declared effective by the SEC no later than the 120th day after the Closing Date, (C) use its commercially reasonable efforts to cause such Registration Statement to remain effective until the closing of the Exchange Offer and (D) use its commercially reasonable efforts to consummate the Exchange Offer no later than 60 days after the effective date of the Exchange Offer Registration Statement. Upon the effectiveness of the Exchange Offer Registration Statement, the Company shall promptly commence the Exchange Offer, it being the objective of such Exchange Offer to enable each Holder eligible and electing to exchange Registrable Securities for Exchange Securities (assuming that such Holder is not an affiliate of the Company within the meaning of Rule 405 under the 1933 Act, acquires the Exchange Securities in the ordinary course of such Holder’s business and has no arrangements or understandings with any Person to participate in the Exchange Offer for the purpose of distributing such Exchange Securities) to trade such Exchange Securities from and after their receipt without any limitations or restrictions under the 1933 Act or under the securities or blue sky laws of the states of the United States.

In connection with the Exchange Offer, the Company shall:

(i) promptly mail or otherwise transmit, in compliance with the applicable procedures of the depository for such Registrable Securities, to each Holder a copy of the Prospectus forming part of the Exchange Offer Registration Statement, together with an appropriate letter of transmittal and related documents;

(ii) keep the Exchange Offer open for not less than 20 business days (or longer if required by applicable law) after the date notice thereof is mailed to the Holders and, during the Exchange Offer, offer to all Holders who are legally eligible to participate in the Exchange Offer the opportunity to exchange their Registrable Securities for Exchange Securities;

(iii) use the services of a depository with an address in the Borough of Manhattan, City of New York for the Exchange Offer;

(iv) permit Holders to withdraw tendered Registrable Securities at any time prior to the close of business, Eastern time, on the last business day on which the Exchange Offer shall remain open, by sending to the institution and at the address specified in the Prospectus or the related letter of transmittal or related documents a facsimile transmission or letter setting forth the name of such Holder, the principal amount of Registrable Securities delivered for exchange, and a statement that such Holder is withdrawing its election to have such Notes exchanged;

(v) notify each Holder that any Registrable Security not tendered will remain outstanding and continue to accrue interest, but will not retain any rights under this Agreement (except in the case of Participating Broker-Dealers as provided herein); and

(vi) otherwise comply in all material respects with all applicable laws relating to the Exchange Offer.

The Exchange Securities shall be issued under the Indenture, which shall be qualified under the TIA. The Indenture shall provide that the Exchange Securities and the Notes shall vote and consent together on all matters as a single class and shall constitute a single series of debt securities issued under the Indenture.

As soon as reasonably practicable after the close of the Exchange Offer, the Company shall:

(i) accept for exchange all Registrable Securities duly tendered and not validly withdrawn pursuant to the Exchange Offer in accordance with the terms of the Exchange Offer Registration Statement and the letter of transmittal which is an exhibit thereto;

(ii) deliver, or cause to be delivered, to the Trustee for cancellation all Registrable Securities so accepted for exchange by the Company; and

(iii) cause the Trustee promptly to authenticate and deliver Exchange Securities to each Holder of Registrable Securities so accepted for exchange equal in principal amount to the principal amount of the Registrable Securities of such Holder so accepted for exchange.

Interest on each Exchange Security will accrue from the last date on which interest was paid or duly provided for on the Notes surrendered in exchange therefor or, if no interest has been paid or duly provided for on such Notes, from the Interest Accrual Date. The Exchange Offer shall not be subject to any conditions, other than (i) that the Exchange Offer, or the making of any exchange by a Holder, does not violate any applicable law or any applicable interpretation of the staff of the SEC, (ii) that no action or proceeding shall have been instituted or threatened in any court or by or before any governmental agency with respect to the Exchange Offer which, in the Company's judgment, would reasonably be expected to impair the ability of the Company to proceed with the Exchange Offer, and (iii) that the Holders tender the Registrable Securities to the Company in accordance with the Exchange Offer. Each Holder of Registrable Securities (other than Participating Broker-Dealers) who wishes to exchange such Registrable Securities for Exchange Securities in the Exchange Offer will be required to represent that (i) it is not an affiliate (as defined in Rule 405 under the 1933 Act) of the Company, (ii) any Exchange Securities to be received by it will be acquired in the ordinary course of business, (iii) it has no arrangement with any Person to participate in the distribution (within the meaning of the 1933 Act) of the Exchange Securities, and (iv) it is not acting on behalf of any Person who could not truthfully make the statements set forth in clauses (i), (ii) and (iii) immediately above, and shall be required to make such other representations as may be reasonably necessary under applicable SEC rules, regulations or interpretations to render the use of Form S-4 or another appropriate form under the 1933 Act available.

(b) Shelf Registration. (i) If, because of any change in law or applicable interpretations thereof by the staff of the SEC, the Company is not permitted to effect the Exchange Offer as contemplated by Section 2(a) hereof, or (ii) if for any other reason (A) the Exchange Offer Registration Statement is not declared effective within 120 days following the Closing Date or (B) the Exchange Offer is not consummated within 60 days after effectiveness of the Exchange Offer Registration Statement (*provided* that if the Exchange Offer Registration Statement shall be declared effective after such 120-day period or if the Exchange Offer shall be consummated after such 60-day period, then the Company's obligations under this clause (ii) arising from the failure of the Exchange Offer Registration Statement to be declared effective within such 120-day period or the failure of the Exchange Offer to be consummated within such 60-day period, respectively, shall terminate), or (iii) if any Holder is not eligible to participate in the Exchange Offer or elects to participate in the Exchange Offer but does not receive Exchange Securities which are freely tradeable without any limitations or restrictions under the 1933 Act, the Company shall, at its cost:

(A) use its commercially reasonable efforts to file with the SEC on or prior to (a) the 180th day after the Closing Date or (b) the 60th day after any such filing obligation arises, whichever is earlier, a Shelf Registration Statement relating to the offer and sale of the Registrable Securities by the Holders from time to time in accordance with the methods of distribution elected by the Majority Holders of such Registrable Securities and set forth in such Shelf Registration Statement;

(B) use its commercially reasonable efforts to cause such Shelf Registration Statement to be declared effective by the SEC as promptly as practicable, but in no event later than the 105th day after an obligation to file with the SEC a Shelf Registration Statement arises. In the event that the Company is required to file a Shelf Registration Statement pursuant to clause (b)(iii) above, the Company shall file and use its commercially reasonable efforts to have declared effective by the SEC both an Exchange Offer Registration Statement pursuant to Section 2(a) with respect to all Registrable Securities and a Shelf Registration Statement (which may be a combined Registration Statement with the Exchange Offer Registration Statement) with respect to offers and sales of Registrable Securities held by such Holder described in clause (b)(iii) above;

(C) use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective, supplemented and amended as required, in order to permit the Prospectus forming part thereof to be usable by Holders for a period of one year after the latest date on which any Notes are originally issued by the Company (subject to extension pursuant to the last paragraph of Section 3) or, if earlier, when all of the Registrable Securities covered by such Shelf Registration Statement (i) have been sold pursuant to the Shelf Registration Statement in accordance with the intended method of distribution thereunder, or (ii) cease to be Registrable Securities; and

(D) notwithstanding any other provisions hereof, use its commercially reasonable efforts to ensure that (i) any Shelf Registration Statement and any amendment thereto and any Prospectus forming a part thereof and any supplements thereto comply in all material respects with the 1933 Act, (ii) any Shelf Registration Statement and any amendment thereto does not, when it becomes effective, contain 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 not misleading and (iii) any Prospectus forming part of any Shelf Registration Statement and any amendment or supplement to such Prospectus does not include an untrue statement of a material fact or 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; *provided, however*, clauses (ii) and (iii) shall not apply to any statement in or omission from a Shelf Registration Statement or a Prospectus made in reliance upon and conformity with information relating to any Holder or Participating Broker-Dealer of Registrable Securities furnished to the Company in writing by such Holder or Participating Broker-Dealer, respectively, expressly for use in such Shelf Registration Statement or Prospectus.

The Company further agrees, if necessary, to supplement or amend the Shelf Registration Statement if reasonably requested by the Majority Holders with respect to information relating to the Holders and otherwise as required by Section 3(b) below, to use its commercially reasonable efforts to cause any such amendment to become effective and such Shelf Registration Statement to become usable as soon as reasonably practicable thereafter and to furnish to the Holders of Registrable Securities copies of any such supplement or amendment promptly after its being used or filed with the SEC.

(c) Expenses. The Company shall pay all Registration Expenses in connection with the registration pursuant to Section 2(a) and 2(b) and, in the case of any Shelf Registration Statement, will reimburse the Holders for the reasonable fees and disbursements of one counsel designated in writing by the Majority Holders to act as counsel for the Holders of the Registrable Securities in connection therewith; provided, however, that the Company shall not be responsible for reimbursement for the fees and disbursements of such counsel in an aggregate amount in excess of \$50,000. Each Holder shall pay all fees and disbursements of its counsel other than as set forth in the preceding sentence or in the definition of Registration Expenses and all underwriting discounts and commissions and transfer taxes, if any, relating to the sale or disposition of such Holder's Registrable Securities pursuant to a Shelf Registration Statement.

(d) Effective Registration Statement.

(i) The Company shall be deemed not to have used its commercially reasonable efforts to cause the Exchange Offer Registration Statement or any Shelf Registration Statement, as the case may be, to become, or to remain, effective during the requisite periods set forth herein if the Company voluntarily takes any action that would reasonably be expected to result in any such Registration Statement not being declared effective or remaining effective or in the Holders of Registrable Securities (including, under the circumstances contemplated by Section 3(f) hereof, Exchange Securities) covered thereby not being able to exchange or offer and sell such Registrable Securities during that period unless (A) such action is required by applicable law or (B) such action is taken by the Company in good faith and for valid business reasons (but not including avoidance of the Company's obligations hereunder), including, but not limited to, the acquisition or divestiture of assets or a material corporate transaction or event, or if the Company determines in good faith that the Company is in possession of material non-public information the disclosure of which would not be in the best interests of the Company, in each case so long as the Company promptly complies with the notification requirements of Section 3(k) hereof, if applicable. Nothing in this paragraph shall prevent the accrual of Additional Interest on any Registrable Securities or Exchange Securities.

(ii) An Exchange Offer Registration Statement pursuant to Section 2(a) hereof or a Shelf Registration Statement pursuant to Section 2(b) hereof shall not be deemed to have become effective unless it has been declared effective by the SEC or becomes effective upon filing with the SEC; *provided, however*, that if, after such Registration Statement has been declared effective or becomes effective upon filing with the SEC, the offering of Registrable Securities pursuant to a Registration Statement is interfered with by any stop order, injunction or other order or requirement of the SEC or any other governmental agency or court, such Registration Statement shall be deemed not to have been effective during the period of such interference until the offering of Registrable Securities pursuant to such Registration Statement may legally resume.

(iii) During any 365-day period, the Company may, by notice as described in Section 3(e), suspend the availability of a Shelf Registration Statement (and, if the Exchange Offer Registration Statement is being used in connection with the resale of Exchange Securities by Participating Broker-Dealers as contemplated by Section 3(f), the Exchange Offer Registration Statement) and the use of the related Prospectus for up to two periods of up to 60 consecutive days each (except for the consecutive 60-day period immediately prior to final maturity of the Notes), but no more than an aggregate of 120 days during any 365-day period, upon (a) the happening of any event or the discovery of any fact referred to in Section 3(e)(vi), or (b) if the Company determines in good faith that effecting or maintaining the availability of the registration would materially and adversely affect an offering of securities of the Company or if the Company is in possession of material non-public information the disclosure of which would not be in the best interests of the Company, in each case subject to compliance by the Company with its obligations under the last paragraph of Section 3.

(e) Increase in Interest Rate. In the event that:

(i) the Exchange Offer Registration Statement is not filed with the SEC on or prior to the 60th day following the Closing Date, or

(ii) the Exchange Offer Registration Statement is not declared effective by the SEC on or prior to the 120th day following the Closing Date, or

(iii) the Exchange Offer is not consummated on or prior to the 60th day following the effective date of the Exchange Offer Registration Statement, or

(iv) if required, a Shelf Registration Statement is not filed with the SEC on or prior to (A) the 180th day following the Closing Date or (B) the 60th day after the obligation to file with the SEC a Shelf Registration Statement arises, whichever is earlier, or

(v) if required, a Shelf Registration Statement is not declared effective on or prior to the 105th day after an obligation to file with the SEC a Shelf Registration Statement arises, or

(vi) a Shelf Registration Statement is declared effective by the SEC but such Shelf Registration Statement ceases to be effective or such Shelf Registration Statement or the Prospectus included therein ceases to be usable in connection with resales of Registrable Securities due to any act or omission of the Company and (A) the aggregate number of days in any consecutive 365-day period for which the Shelf Registration Statement or such Prospectus shall not be effective or usable exceeds 120 days, (B) the Shelf Registration Statement or such Prospectus shall not be effective or usable for more than two periods (regardless of duration) in any consecutive 365-day period or (C) the Shelf Registration Statement or such Prospectus shall not be effective or usable for a period of more than 60 consecutive days, or

(vii) the Exchange Offer Registration Statement is declared effective by the SEC but, if the Exchange Offer Registration Statement is being used in connection with the resale of Exchange Securities as contemplated by Section 3(f) of this Agreement, the Exchange Offer Registration Statement ceases to be effective or the Exchange Offer Registration Statement or the Prospectus included therein ceases to be usable in connection with resales of Exchange Securities due to any act or omission of the Company during the 180-day period referred to in Section 3(f)(B) of this Agreement (as such period may be extended pursuant to the last paragraph of Section 3 of this Agreement) and (A) the aggregate number of days in any consecutive 365-day period for which the Exchange Offer Registration Statement or such Prospectus shall not be effective or usable exceeds 120 days, (B) the Exchange Offer Registration Statement or such Prospectus shall not be effective or usable for more than two periods (regardless of duration) in any consecutive 365-day period or (C) the Exchange Offer Registration Statement or the Prospectus shall not be effective or usable for a period of more than 90 consecutive days, (each of the events referred to in clauses (i) through (vii) above being hereinafter called a “**Registration Default**”), the per annum interest rate borne by the Registrable Securities shall be increased (“**Additional Interest**”) by one-quarter of one percent (0.25%) per annum immediately following such 60-day period in the case of clause (i) above, immediately following such 120-day period in the case of clause (ii) above, immediately following such 60-day period in the case of clause (iii) above, immediately following any such 180-day period or 60-day period, whichever ends earlier, in the case of clause (iv) above, immediately following any such 105-day period in the case of clause (v) above, immediately following the 120th day in any consecutive 365-day period, as of the first day of the third period in any consecutive 365-day period or immediately following the 60th consecutive day, whichever occurs first, that a Shelf Registration Statement shall not be effective or a Shelf Registration Statement or the Prospectus included therein shall not be usable as contemplated by clause (vi) above, or immediately following the 120th day in any consecutive 365-day period, as of the first day of the third period in any consecutive 365-day period or immediately following the 60th consecutive day, whichever occurs first, that the Exchange Offer Registration Statement shall not be effective or the Exchange Offer Registration Statement or the Prospectus included therein shall not be usable as contemplated by clause (vii) above, which rate will be increased by an additional one-quarter of one percent (0.25%) per annum immediately following each 90-day period that any Additional Interest continues to accrue under any circumstances; *provided* that, if at any time more than one Registration Default has occurred and is continuing, then, until the next date that there is no Registration Default, the increase in interest rate provided for by this paragraph shall apply as if there occurred a single Registration Default that begins on the date that the earliest such Registration Default occurred and ends on such date that there is no Registration Default; *provided further*, that the aggregate increase in such annual interest rate may in no event exceed one-half of one percent (0.50%) per annum. Upon the filing of the Exchange Offer Registration Statement after the 60-day period described in clause (i) above, the effectiveness of the Exchange Offer Registration Statement after the 120-day period described in clause (ii) above, the consummation of the Exchange Offer after the 60-day period described in clause (iii) above, the filing of the Shelf Registration Statement after the 180-day period or 60-day period, as the case may be, described in clause (iv) above, the effectiveness of a Shelf Registration Statement after the 105-day period described in clause (v) above, or the Shelf Registration Statement once again being effective or the Shelf Registration Statement and the Prospectus included therein becoming usable in connection with resales of Registrable Securities, as the case may be, in the case of clause (vi) above, or the Exchange Offer Registration Statement once again becoming effective or the Exchange Offer Registration Statement and the Prospectus included therein becoming usable in connection with resales of Exchange Securities, as the case may be, in the case of clause (vii) thereof, the interest rate borne by the Notes from the date of such filing, effectiveness, consummation or resumption of effectiveness or usability, as the case may be, shall be reduced to the original interest rate so long as no other Registration Default shall have occurred and shall be continuing at such time and the Company is otherwise in compliance with this paragraph; *provided, however*, that, if after any such reduction in interest rate, one or more Registration Defaults shall again occur, the interest rate shall again be increased pursuant to the foregoing provisions (as if it were the original Registration Default). Notwithstanding anything in this Agreement to the contrary, the Company will not be obligated to pay any Additional Interest in the case of a Shelf Registration Statement with respect to any Holder of Registrable Securities who fails to timely provide all information with respect to Holder that is reasonably requested by the Company to enable it to timely comply with its obligations under Section 2(b).

The Company shall notify the Trustee within three business days after each and every date on which an event occurs in respect of which Additional Interest is required to be paid (an “**Event Date**”). Additional Interest shall be paid by depositing with the Trustee, in trust, for the benefit of the Holders of Registrable Securities, on or before the applicable interest payment date, immediately available funds in sums sufficient to pay the Additional Interest then due. The Additional Interest due shall be payable on each interest payment date to the record Holder of Registrable Securities entitled to receive the interest payment to be paid on such date as set forth in the Indenture. Each obligation to pay Additional Interest shall be deemed to accrue from and including the day following the applicable Event Date.

Anything herein to the contrary notwithstanding, any Holder who was, at the time the Exchange Offer was pending and consummated, eligible to exchange, and did not validly tender, its Notes for Exchange Securities in the Exchange Offer will not be entitled to receive any Additional Interest.

(f) **Specific Enforcement.** Without limiting the remedies available to the Holders or any Participating Broker-Dealer, the Company acknowledges that any failure by the Company to comply with its obligations under 2(a) and 2(b) hereof may result in material irreparable injury to the Holders or the Participating Broker-Dealers for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, any Holder and any Participating Broker-Dealer may obtain such relief as may be required to specifically enforce the Company's obligations under 2(a) and 2(b).

3. Registration Procedures. In connection with the obligations of the Company with respect to the Registration Statements pursuant to 2(a) and 2(b) hereof, the Company shall:

(a) prepare and file with the SEC a Registration Statement or, if required, Registration Statements, within the time periods specified in Section 2, on the appropriate form under the 1933 Act, which form (i) shall be selected by the Company, (ii) shall, in the case of a Shelf Registration Statement, be available for the sale of the Registrable Securities by the selling Holders thereof and (iii) shall comply as to form in all material respects with the requirements of the applicable form and include or incorporate by reference all financial statements required by the SEC to be filed therewith or incorporated by reference therein, and use its commercially reasonable efforts to cause such Registration Statement to become effective and remain effective for the applicable period in accordance with Section 1 hereof;

(b) prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary under applicable law to keep such Registration Statement effective for the applicable period in accordance with Section 2 hereof; cause each Prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 under the 1933 Act; and comply with the provisions of the 1933 Act and the 1934 Act with respect to the disposition of all Registrable Securities covered by each Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the selling Holders thereof;

(c) in the case of a Shelf Registration, (i) notify each Holder of Registrable Securities, at least ten business days prior to filing, that a Shelf Registration Statement with respect to the Registrable Securities is being filed and advising such Holders that the distribution of Registrable Securities will be made in accordance with the method elected by the Majority Holders; (ii) furnish to each Holder of Registrable Securities and counsel for the Holders, without charge, as many copies of each Prospectus, including each preliminary Prospectus, and any amendment or supplement thereto and such other documents as such Holder or counsel may reasonably request, including financial statements and schedules and, if such Holder or counsel so requests, all exhibits (including those incorporated by reference) in order to facilitate the public sale or other disposition of the Registrable Securities; and (iii) subject to the penultimate paragraph of this Section 3, the Company hereby consents to the use of the Prospectus, including each preliminary Prospectus, or any amendment or supplement thereto by each of the Holders of Registrable Securities in accordance with applicable law in connection with the offering and sale of the Registrable Securities covered by and in the manner described in any Prospectus or any amendment or supplement thereto;

(d) use its commercially reasonable efforts to register or qualify the Registrable Securities under all applicable state securities or "blue sky" laws of such jurisdictions as any Holder of Registrable Securities covered by a Registration Statement shall reasonably request, to cooperate with the Holders of any Registrable Securities in connection with any filings required to be made with FINRA, to keep each such registration or qualification effective during the period such Registration Statement is required to be effective and do any and all other acts and things which may be reasonably necessary or advisable to enable such Holder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder; *provided, however*, that the Company shall not be required to (i) qualify as a foreign corporation or entity or as a dealer in securities in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d) or (ii) take any action which would subject it to general service of process or taxation in any such jurisdiction if it is not then so subject;

(e) in the case of a Shelf Registration, notify each Holder of Registrable Securities and counsel for such Holders promptly and, if requested by such Holder or counsel, confirm such advice in writing promptly

(i) when a Registration Statement has become effective and when any post-effective amendments and supplements thereto become effective,

(ii) of any request by the SEC or any state securities authority for post-effective amendments or supplements to a Registration Statement or Prospectus or for additional information after a Registration Statement has become effective (other than comments to 1934 Act reports incorporated therein by reference),

(iii) of the issuance by the SEC or any state securities authority of any stop order suspending the effectiveness of a Registration Statement or the initiation of any proceedings for that purpose,

(iv) [reserved],

(v) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose,

(vi) of the happening of any event or the discovery of any facts during the period a Shelf Registration Statement is effective which is contemplated in Section 2(d)(i) or which makes any statement made in such Shelf Registration Statement or the related Prospectus untrue in any material respect or which constitutes an omission to state a material fact in such Shelf Registration Statement or Prospectus and

(vii) of any determination by the Company that a post-effective amendment to a Registration Statement would be appropriate. Without limitation to any other provisions of this Agreement, the Company agrees that this Section 3(e) shall also be applicable, mutatis mutandis, with respect to the Exchange Offer Registration Statement and the Prospectus included therein to the extent that such Prospectus is being used by Participating Broker-Dealers as contemplated by Section 3(f);

(f) (A) in the case of an Exchange Offer, (i) include in the Exchange Offer Registration Statement (1) a “**Plan of Distribution**” section covering the use of the Prospectus included in the Exchange Offer Registration Statement by broker-dealers who have exchanged their Registrable Securities for Exchange Securities for the resale of such Exchange Securities and (2) a statement to the effect that any such broker-dealers who wish to use the related Prospectus in connection with the resale of Exchange Securities acquired as a result of market-making or other trading activities will be required to notify the Company to that effect, together with instructions for giving such notice (which instructions shall include a provision for giving such notice by checking a box or making another appropriate notation on the related letter of transmittal) (each such broker-dealer who gives notice to the Company as aforesaid being hereinafter called a “**Notifying Broker-Dealer**”), (ii) furnish to each Notifying Broker-Dealer who desires to participate in the Exchange Offer, without charge, as many copies of each Prospectus included in the Exchange Offer Registration Statement, including any preliminary prospectus, and any amendment or supplement thereto, as such broker-dealer may reasonably request, (iii) include in the Exchange Offer Registration Statement a statement that any broker-dealer who holds Registrable Securities acquired for its own account as a result of market-making activities or other trading activities (a “**Participating Broker-Dealer**”), and who receives Exchange Securities for Registrable Securities pursuant to the Exchange Offer, may be a statutory underwriter and must deliver a prospectus meeting the requirements of the 1933 Act in connection with any resale of such Exchange Securities, (iv) subject to the penultimate paragraph of this Section 3, the Company hereby consents to the use of the Prospectus forming part of the Exchange Offer Registration Statement or any amendment or supplement thereto by any Notifying Broker-Dealer in accordance with applicable law in connection with the sale or transfer of Exchange Securities, and (v) include in the transmittal letter or similar documentation to be executed by an exchange offeree in order to participate in the Exchange Offer the following provision:

“If the undersigned is not a broker-dealer, the undersigned represents that it is not engaged in, and does not intend to engage in, a distribution of Exchange Securities. If the undersigned is a broker-dealer that will receive Exchange Securities for its own account in exchange for Registrable Securities, it represents that the Registrable Securities to be exchanged for Exchange Securities were acquired by it as a result of market-making activities or other trading activities and acknowledges that it will deliver a prospectus meeting the requirements of the 1933 Act in connection with any resale of such Exchange Securities pursuant to the Exchange Offer; however, by so acknowledging and by delivering a prospectus, the undersigned will not be deemed to admit that it is an “underwriter” within the meaning of the 1933 Act;”

(B) to the extent any Notifying Broker-Dealer participates in the Exchange Offer, (i) the Company shall use its commercially reasonable efforts to maintain the effectiveness of the Exchange Offer Registration Statement for a period of 180 days (subject to extension pursuant to the last paragraph of this Section 3) following the last date on which exchanges are accepted pursuant to the Exchange Offer, and (ii) the Company will comply, insofar as relates to the Exchange Offer Registration Statement, the Prospectus included therein and the offering and sale of Exchange Securities pursuant thereto, with its obligations under Section 2(b)(D), the last paragraph of Section 2(b), Section 3(c), 3(d), 3(e), 3(g), 3(i), 3(j), 3(k), 3(o), 3(p), 3(q), 3(r) and 3(s), and the last three paragraphs of this Section 3 as if all references therein to a Shelf Registration Statement, the Prospectus included therein and the Holders of Registrable Securities referred, mutatis mutandis, to the Exchange Offer Registration Statement, the Prospectus included therein and the applicable Notifying Broker-Dealers and, for purposes of this Section 3(f), all references in any such paragraphs or sections to the “**Majority Holders**” shall be deemed to mean, solely insofar as relates to this Section 3(f), the Notifying Broker-Dealers who are the Holders of the majority in aggregate principal amount of the Exchange Securities which are Registrable Securities; and

(C) the Company shall not be required to amend or supplement the Prospectus contained in the Exchange Offer Registration Statement as would otherwise be contemplated by Section 3(b) or 3(k) hereof, or take any other action as a result of this Section 3(f), for a period exceeding 180 days (subject to extension pursuant to the last paragraph of this Section 3) after the last date on which exchanges are accepted pursuant to the Exchange Offer and Notifying Broker-Dealers shall not be authorized by the Company to, and shall not, deliver such Prospectus after such period in connection with resales contemplated by this Section 3;

(g) in the case of a Shelf Registration, furnish counsel for the Holders of Registrable Securities copies of any request by the SEC or any state securities authority for amendments or supplements to a Registration Statement or Prospectus or for additional information (other than comments to 1934 Act reports incorporated therein by reference);

(h) use its commercially reasonable efforts to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement as soon as practicable and provide prompt notice to each Holder of the withdrawal of any such order;

(i) in the case of a Shelf Registration, upon request furnish to each Holder of Registrable Securities, without charge, at least one conformed copy of each Registration Statement and any post-effective amendments thereto (without documents incorporated or deemed to be incorporated therein by reference or exhibits thereto, unless requested);

(j) in the case of a Shelf Registration, cooperate with the selling Holders of Registrable Securities to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and cause such Registrable Securities to be in such denominations (consistent with the provisions of the Indenture) and in a form eligible for deposit with the Depositary and registered in such names as the selling Holders may reasonably request in writing at least two business days prior to the closing of any sale of Registrable Securities;

(k) in the case of a Shelf Registration, upon the occurrence of any event or the discovery of any facts as contemplated by Section 3(e)(vi) hereof, use its commercially reasonable efforts to prepare a supplement or post-effective amendment to a Registration Statement or the related Prospectus or any document incorporated or deemed to be incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities, such Prospectus will not contain at the time of such delivery any 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. The Company agrees to notify each Holder to suspend use of the Prospectus as promptly as practicable after the occurrence of such an event, and each Holder hereby agrees to suspend use of the Prospectus until the Company has amended or supplemented the Prospectus to correct such misstatement or omission. At such time as such public disclosure is otherwise made or the Company determines that such disclosure is not necessary, in each case to correct any misstatement of a material fact or to include any omitted material fact, the Company agrees promptly to notify each Holder of such determination and to furnish each Holder such number of copies of the Prospectus, as amended or supplemented, as such Holder may reasonably request;

(l) obtain CUSIP and ISIN numbers for all Exchange Securities or Registrable Securities, as the case may be, not later than the effective date of a Registration Statement, and provide the Trustee with printed or word-processed certificates for the Exchange Securities or Registrable Securities, as the case may be, in a form eligible for deposit with the Depositary;

(m) (i) cause the Indenture to be qualified under the TIA in connection with the registration of the Exchange Securities or Registrable Securities, as the case may be, (ii) cooperate with the Trustee and the Holders to effect such changes, if any, to the Indenture as may be required for the Indenture to be so qualified in accordance with the terms of the TIA and (iii) execute, and use its commercially reasonable efforts to cause the Trustee to execute, all documents as may be required to effect such changes, if any, and all other forms and documents required to be filed with the SEC to enable the Indenture to be so qualified in a timely manner;

(n) in the case of a Shelf Registration, upon request make available for inspection, at reasonable times and in reasonable manner, by representatives of the Holders of the Registrable Securities participating in any disposition pursuant to a Shelf Registration Statement and one counsel or accountant retained by such Holders (with such inspection to occur at such time as mutually agreed between the Company and such Persons), all financial statements and other records, documents and properties of the Company reasonably requested by any such Persons, and cause the respective officers, directors, employees, and any other agents of the Company to supply all information reasonably requested by any such Persons in connection with a Shelf Registration Statement; provided, that any such Persons shall be required to execute a customary confidentiality agreement;

(o) in the case of a Shelf Registration, a reasonable time prior to filing any Shelf Registration Statement, any Prospectus forming a part thereof, any amendment to such Shelf Registration Statement or amendment or supplement to such Prospectus, provide copies of such document to the Holders of Registrable Securities and to counsel for any such Holders, and make such changes in any such document prior to the filing thereof as the Holders of Registrable Securities, or any of their counsel may reasonably request, and cause the representatives of the Company to be available for discussion of such documents, at reasonable times and in reasonable manner, as shall be reasonably requested by the Holders of Registrable Securities and shall not at any time make any filing of any such document of which such Holders or their counsel shall not have previously been advised and furnished a copy or to which such Holders or their counsel shall reasonably object within a reasonable time period;

(p) in the case of a Shelf Registration, use its commercially reasonable efforts to cause all Registrable Securities to be listed on any securities exchange on which similar debt securities issued by the Company are then listed if requested by the Majority Holders;

(q) in the case of a Shelf Registration, use its commercially reasonable efforts to cause the Registrable Securities to be rated by the same rating agency that initially rated the Notes, if so requested by the Majority Holders of Registrable Securities, unless the Registrable Securities are already so rated;

(r) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the SEC and, with respect to each Registration Statement and each post-effective amendment, if any, thereto and each filing by the Company of an Annual Report on Form 10-K, make available to its security holders, as soon as reasonably practicable, an earnings statement covering at least twelve months which shall satisfy the provisions of Section 11(a) of the 1933 Act and Rule 158 thereunder; and

- (s) cooperate and assist in any filings required to be made with FINRA.

In the case of a Shelf Registration Statement, the Company may (as a condition to such Holder's participation in the Shelf Registration) require each Holder of Registrable Securities to furnish to the Company such information regarding such Holder and the proposed distribution by such Holder of such Registrable Securities as the Company may from time to time reasonably request in writing and require such Holder to agree in writing to be bound by all provisions of this Agreement applicable to such Holder.

In the case of a Shelf Registration Statement, each Holder agrees and, in the event that any Participating Broker-Dealer is using the Prospectus included in the Exchange Offer Registration Statement in connection with the sale of Exchange Securities pursuant to Section 3(f), each such Participating Broker-Dealer agrees that, upon receipt of any notice from the Company of the happening of any event or the discovery of any facts of the kind described in Section 3(e)(ii), 3(e)(iii) or 3(e)(v) through 3(e)(vii) hereof, such Holder or Participating Broker-Dealer, as the case may be, will forthwith discontinue disposition of Registrable Securities pursuant to a Registration Statement until receipt by such Holder or Participating Broker-Dealer, as the case may be, of (i) the copies of the supplemented or amended Prospectus contemplated by Section 3(k) hereof or (ii) written notice from the Company that the Shelf Registration Statement or the Exchange Offer Registration Statement, respectively, are once again effective or that no supplement or amendment is required. If so directed by the Company, such Holder or Participating Broker-Dealer, as the case may be, will deliver to the Company (at the Company's expense) all copies in its possession, other than permanent file copies then in its possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. Nothing in this paragraph shall prevent the accrual of Additional Interest on any Registrable Securities.

If the Company shall give any such notice to suspend the disposition of Registrable Securities pursuant to the immediately preceding paragraph, the Company shall be deemed to have used its commercially reasonable efforts to keep the Shelf Registration Statement or, in the case of Section 3(f), the Exchange Offer Registration Statement, as the case may be, effective during such period of suspension; *provided* that (i) such period of suspension shall not exceed the time periods provided in Section 2(d)(iii) hereof and (ii) the Company shall use its commercially reasonable efforts to file and have declared effective (if an amendment) as soon as practicable thereafter an amendment or supplement to the Shelf Registration Statement or the Exchange Offer Registration Statement or both, as the case may be, or the Prospectus included therein and shall extend the period during which the Shelf Registration Statement or the Exchange Offer Registration Statement or both, as the case may be, shall be maintained effective pursuant to this Agreement (and, if applicable, the period during which Participating Broker-Dealers may use the Prospectus included in the Exchange Offer Registration Statement pursuant to Section 3(f) hereof) by the number of days during the period from and including the date of the giving of such notice to and including the earlier of the date when the Holders or Participating Broker-Dealers, respectively, shall have received copies of the supplemented or amended Prospectus necessary to resume such dispositions and the effective date of written notice from the Company to the Holders or Participating Broker-Dealers, respectively, that the Shelf Registration Statement or the Exchange Offer Registration Statement, respectively, are once again effective or that no supplement or amendment is required.

4. Indemnification and Contribution.

(a) The Company agrees to indemnify and hold harmless each Holder, each Participating Broker-Dealer and each Person, if any, who controls any Holder or Participating Broker-Dealer within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 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 any Registration Statement (or any amendment thereto) pursuant to which Exchange Securities or Registrable Securities were registered under the 1933 Act, including all documents incorporated therein by reference, or any 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 contained in any preliminary prospectus or Prospectus (or any amendment or supplement thereto) or any 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 described in subparagraph (i) above; *provided* that any such settlement is effected with the prior written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including, subject to Section 4(c) below, the fees and disbursements of counsel chosen by any indemnified party), 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 described in subparagraph (i) above, to the extent that any such expense is not paid under subparagraph (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 written information furnished to the Company by any Holder or Participating Broker-Dealer with respect to such Holder, Participating Broker-Dealer, as the case may be, expressly for use in the Registration Statement (or any amendment thereto) or the Prospectus (or any amendment or supplement thereto).

(b) Each Holder, severally but not jointly, agrees to indemnify and hold harmless the Company, each director of the Company, each officer of the Company who signed the Registration Statement, each Participating Broker-Dealer and each other selling Holder and each Person, if any, who controls the Company, any Participating Broker-Dealer or any other selling Holder within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 4(a) hereof, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Shelf Registration Statement (or any amendment thereto) or any Prospectus included therein (or any amendment or supplement thereto) in reliance upon and in conformity with written information with respect to such Holder furnished to the Company by such Holder expressly for use in the Shelf Registration Statement (or any amendment thereto) or such Prospectus (or any amendment or supplement thereto); *provided, however*, that no such Holder shall be liable for any claims hereunder in excess of the amount of net proceeds received by such Holder from the sale of Registrable Securities pursuant to such Shelf Registration Statement.

(c) Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure so to 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. Counsel to the respective indemnified parties shall be selected as follows: (i) counsel to the Company, its directors, each of its officers who signed the Registration Statement and all Persons, if any, who control the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall be selected by the Company; (ii) counsel to the Holders (other than Participating Broker-Dealers) and all Persons, if any, who control any Holders (other than any Participating Broker-Dealers) within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall be selected by the Holders who held or hold, as the case may be, a majority in aggregate principal amount of the Registrable Securities held by all such Holders; and (iii) counsel to the Participating Broker-Dealers and all Persons, if any, who control any such Participating Broker-Dealer within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall be selected by the Participating Broker-Dealers who held or hold, as the case may be, a majority in aggregate principal amount of the Exchange Securities referred to in Section 3(f) hereof held by all such Participating Broker-Dealers. In no event shall the indemnifying party or parties be liable for (A) the fees and expenses of more than one counsel separate from the indemnifying parties' own counsel for the Company and all other Persons referred to in clause (i) of this paragraph, (B) the fees and expenses of more than one counsel separate from the indemnifying parties' own counsel for all Holders (other than Participating Broker-Dealers) and all other Persons referred to in clause (ii) of this paragraph, and (C) the fees and expenses of more than one counsel separate from the indemnifying parties' own counsel for all Participating Broker-Dealers and all other Persons referred to in clause (iv) of this paragraph, in each case in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. The indemnifying party shall be entitled to participate therein and, to the extent that it shall elect, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party, provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. After notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation unless (A) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel, approved by the indemnifying party) or (B) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party within a reasonable time after notice of commencement of the action, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party. 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 4 (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) If the indemnification provided for in this Section 4 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, in such proportion as is appropriate to reflect the relative fault of the indemnifying party or parties on the one hand and of the indemnified party or parties 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 fault of such indemnifying party or parties on the one hand and the indemnified party or parties on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or parties or such indemnified party or parties, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The Company and the Holders agree that it would not be just or equitable if contribution pursuant to this Section 4 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 4 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing for, 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.

Notwithstanding the provisions of this Section 4, other than in the case of intentional misrepresentation or omission of a material fact, no Holder or Participating Broker-Dealer shall be required to contribute any amount in excess of the amount by which the total price at which Registrable Securities sold by it were offered exceeds the amount of any damages that such Holder or Participating Broker-Dealer 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 1933 Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 4, each Person, if any, who controls a Holder or Participating Broker-Dealer within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as such Holder or Participating Broker-Dealer, as the case may be, 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 within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company.

The respective obligations of the Holders and Participating Broker-Dealers to contribute pursuant to this Section 4 are several in proportion to the principal amount of Notes purchased by them and not joint.

The indemnity and contribution provisions contained in this Section 4 shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Holder or Participating Broker-Dealer or any Person controlling any Holder or Participating Broker-Dealer, or by or on behalf of the Company, its officers or directors or any Person controlling the Company, (iii) acceptance of any of the Exchange Securities and (iv) any sale of Registrable Securities or Exchange Securities pursuant to a Shelf Registration Statement.

5. Miscellaneous.

(a) Rule 144 and Rule 144A. For so long as the Company is subject to the reporting requirements of Section 13 or 15 of the 1934 Act, the Company covenants that it will file all reports required to be filed by it under Section 13(a) or 15(d) of the 1934 Act and the rules and regulations adopted by the SEC thereunder, that if it ceases to be so required to file such reports, it will upon the request of any Holder or beneficial owner of Registrable Securities (i) make publicly available such information (including, without limitation, the information specified in Rule 144(c)(2) under the 1933 Act) as is necessary to permit sales pursuant to Rule 144 under the 1933 Act, (ii) deliver or cause to be delivered, promptly following a request by any Holder or beneficial owner of Registrable Securities or any prospective purchaser or transferee designated by such Holder or beneficial owner, such information (including, without limitation, the information specified in Rule 144A(d)(4) under the 1933 Act) as is necessary to permit sales pursuant to Rule 144A under the 1933 Act, and (iii) take such further action that is reasonable in the circumstances, in each case to the extent required from time to time to enable such Holder to sell its Registrable Securities without registration under the 1933 Act within the limitation of the exemptions provided by (x) Rule 144 under the 1933 Act, as such Rule may be amended from time to time, (y) Rule 144A under the 1933 Act, as such Rule may be amended from time to time, or (z) any similar rules or regulations hereafter adopted by the SEC. Upon the request of any Holder or beneficial owner of Registrable Securities, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements.

(b) No Inconsistent Agreements. The Company has not entered into nor will the Company on or after the date of this Agreement enter into any agreement which is inconsistent with the rights granted to the Holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof; *provided* that the Company will not be precluded from entering into any agreement after the date hereof which may or does result, directly or indirectly, in the payment of Additional Interest. The rights granted to the Holders hereunder do not and will not in any way conflict in any material respects with and are not and will not be inconsistent in any material respects with the rights granted to the holders of any of the Company's other issued and outstanding securities under any other agreements entered into by the Company or any of its subsidiaries.

(c) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the Company has obtained the written consent of Holders of at least a majority in aggregate principal amount of the outstanding Registrable Securities affected by such amendment, modification, supplement, waiver or departure.

(d) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, electronic mail, or any courier guaranteeing overnight delivery (i) if to a Holder or Participating Broker-Dealer at the most current address set forth on the records of the registrar under the Indenture, and (ii) if to the Company, initially at the address set forth in the Purchase Agreement and thereafter at such other address, notice of which is given in accordance with the provisions of this Section 5(d).

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when receipt is acknowledged, if sent via electronic mail; and on the next business day if timely delivered to an air courier guaranteeing overnight delivery.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee, at the address specified in the Indenture.

(e) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors, assigns and transferees of each of the parties, including, without limitation and without the need for an express assignment, subsequent Holders; *provided* that nothing herein shall be deemed to permit any assignment, transfer or other disposition of Registrable Securities in violation of the terms hereof or of the Purchase Agreement or the Indenture. If any transferee of any Holder shall acquire Registrable Securities, in any manner, whether by operation of law or otherwise, such Registrable Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Registrable Securities, such Person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement, including the restrictions on resale set forth in this Agreement and, if applicable, the Purchase Agreement, and such Person shall be entitled to receive the benefits hereof.

(f) Third Party Beneficiary. Each Holder and Participating Broker-Dealer shall be a third party beneficiary of the agreements made hereunder and shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights or the rights of other Holders hereunder. Each Holder, by its acquisition of Notes, shall be deemed to have agreed to the provisions of Section 5(b) hereof.

(g) Counterparts; Electronic Transmission. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Any facsimile or electronically transmitted copies hereof or signature hereon will, for all purposes, be deemed originals. Unless otherwise provided herein or in any other related document, the words “execute”, “execution”, “signed”, and “signature” and words of similar import used in this Agreement shall be deemed to include electronic signatures and the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act, the Electronic Signature and Records Act, and any other similar state laws based on the Uniform Electronic Transactions Act, provided that, notwithstanding anything herein to the contrary, the Company is not under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Company pursuant to procedures approved by the Company.

(h) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) Restriction on Resales. If the Company or any of its subsidiaries or affiliates (as defined in Rule 144 under the 1933 Act) shall redeem, purchase or otherwise acquire any Registrable Security or any Exchange Security which is a “restricted security” within the meaning of Rule 144 under the 1933 Act, the Company will deliver or cause to be delivered such Registrable Security or Exchange Security, as the case may be, to the Trustee for cancellation and neither the Company nor any of its subsidiaries or affiliates will hold or resell such Registrable Security or Exchange Security or issue any new Security or Exchange Security to replace the same.

(j) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(k) Entire Agreement; Severability. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all oral statements and prior writings with respect hereto. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Company has caused this Registration Rights Agreement to be executed by its duly authorized representative as of the date first above written.

COMPANY:

ARBOR REALTY TRUST, INC.

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the Purchaser has caused this Registration Rights Agreement to be executed by its duly authorized representative as of the date first above written.

PURCHASER:

By: _____

Name: _____

Title: _____



**Arbor Realty Trust, Inc. Announces Issuance of \$175 Million of
Senior Unsecured Notes due 2026**

UNIONDALE, N.Y., May 4, 2021 — Arbor Realty Trust, Inc. (the “Company”) (NYSE:ABR) announced today that it has issued \$175 million aggregate principal amount of 5.00% senior unsecured notes due April 30, 2026 in a private placement (the “Notes”).

The Company intends to use the net proceeds from the offering to make investments relating to its business and for general corporate purposes.

Piper Sandler & Co. acted as placement agent for this offering.

The Notes have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), and are being offered and sold in reliance on an exemption from registration provided by Section 4(a)(2) of the Securities Act. Unless so registered, the Notes may not be offered or sold in the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws.

This press release is neither an offer to sell nor a solicitation of an offer to buy the Notes or any other securities and shall not constitute an offer to sell or a solicitation of an offer to buy, or a sale of, the Notes or any other securities in any jurisdiction in which such offer, solicitation or sale is unlawful.

About Arbor Realty Trust, Inc.

Arbor Realty Trust, Inc. (NYSE:ABR) is a nationwide real estate investment trust and direct lender, providing loan origination and servicing for multifamily, seniors housing, healthcare and other diverse commercial real estate assets. Headquartered in New York, Arbor manages a multibillion-dollar servicing portfolio, specializing in government-sponsored enterprise products. Arbor is a Fannie Mae DUS® lender and Freddie Mac Optigo Seller/Service. Arbor’s product platform also includes CMBS, bridge, mezzanine and preferred equity lending.

Safe Harbor Statement

Certain items in this press release may constitute forward-looking statements within the meaning of the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995, including, but not limited to, statements relating to the anticipated use of the net proceeds from the offering. These statements are based on management’s current expectations and beliefs and are subject to a number of trends and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements. The Company can give no assurance that its expectations will be attained. Factors that could cause actual results to differ materially from the Company’s expectations include, but are not limited to, changes in economic conditions generally, and the real estate markets specifically, in particular, due to the uncertainties created by the COVID-19 pandemic, continued ability to source new investments, changes in interest rates and/or credit spreads, and other risks detailed in the Company’s Annual Report on Form 10-K for the year ended December 31, 2020 and its other reports filed with the SEC. Such forward-looking statements speak only as of the date of this press release. The Company expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in the Company’s expectations with regard thereto or change in events, conditions, or circumstances on which any such statement is based.

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