

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

**FORM 10-Q**

**(Mark One)**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES**

**EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED**

**SEPTEMBER 30, 2018**

**OR**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_**

**Commission file number: 1-10989**

**Ventas, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or Other Jurisdiction of Incorporation or Organization)

**61-1055020**

(I.R.S. Employer Identification No.)

**353 N. Clark Street, Suite 3300**

**Chicago, Illinois**

(Address of Principal Executive Offices)

**60654**

(Zip Code)

**(877) 483-6827**

(Registrant's Telephone Number, Including Area Code)

**Not Applicable**

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

**Class of Common Stock:**

Common Stock, \$0.25 par value

**Outstanding at October 23, 2018:**

356,467,761

**VENTAS, INC.  
FORM 10-Q**

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**PART I—FINANCIAL INFORMATION**

**ITEM 1. CONSOLIDATED FINANCIAL STATEMENTS**

**VENTAS, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**(Unaudited)**

	As of September 30, 2018	As of December 31, 2017
	(In thousands, except per share amounts)	
<b>Assets</b>		
Real estate investments:		
Land and improvements	\$ 2,115,870	\$ 2,151,386
Buildings and improvements	22,188,578	22,216,942
Construction in progress	395,072	344,151
Acquired lease intangibles	1,506,269	1,548,074
	<u>26,205,789</u>	<u>26,260,553</u>
Accumulated depreciation and amortization	(6,185,155)	(5,638,099)
Net real estate property	<u>20,020,634</u>	<u>20,622,454</u>
Secured loans receivable and investments, net	527,851	1,346,359
Investments in unconsolidated real estate entities	48,478	123,639
Net real estate investments	<u>20,596,963</u>	<u>22,092,452</u>
Cash and cash equivalents	86,107	81,355
Escrow deposits and restricted cash	62,440	106,898
Goodwill	1,045,877	1,034,644
Assets held for sale	24,180	65,413
Other assets	782,386	573,779
Total assets	<u>\$ 22,597,953</u>	<u>\$ 23,954,541</u>
<b>Liabilities and equity</b>		
Liabilities:		
Senior notes payable and other debt	\$ 10,478,455	\$ 11,276,062
Accrued interest	76,883	93,958
Accounts payable and other liabilities	1,134,898	1,183,489
Liabilities related to assets held for sale	14,790	60,265
Deferred income taxes	236,616	250,092
Total liabilities	<u>11,941,642</u>	<u>12,863,866</u>
Redeemable OP Unitholder and noncontrolling interests	143,242	158,490
Commitments and contingencies		
Equity:		
Ventas stockholders' equity:		
Preferred stock, \$1.00 par value; 10,000 shares authorized, unissued	—	—
Common stock, \$0.25 par value; 600,000 shares authorized, 356,468 and 356,187 shares issued at September 30, 2018 and December 31, 2017, respectively	89,100	89,029
Capital in excess of par value	13,081,324	13,053,057
Accumulated other comprehensive loss	(7,947)	(35,120)
Retained earnings (deficit)	(2,709,293)	(2,240,698)
Treasury stock, 6 and 1 shares at September 30, 2018 and December 31, 2017, respectively	(345)	(42)
Total Ventas stockholders' equity	<u>10,452,839</u>	<u>10,866,226</u>
Noncontrolling interests	60,230	65,959
Total equity	<u>10,513,069</u>	<u>10,932,185</u>
Total liabilities and equity	<u>\$ 22,597,953</u>	<u>\$ 23,954,541</u>

See accompanying notes.

**VENTAS, INC.**  
**CONSOLIDATED STATEMENTS OF INCOME**  
(Uaudited)

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands, except per share amounts)			
<b>Revenues</b>				
Rental income:				
Triple-net leased	\$ 190,117	\$ 212,370	\$ 548,628	\$ 634,955
Office	193,911	189,506	580,471	561,641
	384,028	401,876	1,129,099	1,196,596
Resident fees and services	518,560	461,700	1,552,302	1,386,131
Office building and other services revenue	3,288	3,196	10,905	9,781
Income from loans and investments	18,108	32,985	105,706	85,499
Interest and other income	12,554	171	24,535	854
Total revenues	936,538	899,928	2,822,547	2,678,861
<b>Expenses</b>				
Interest	107,581	113,869	331,973	336,245
Depreciation and amortization	218,579	213,407	675,363	655,298
Property-level operating expenses:				
Senior living	366,721	315,598	1,080,053	936,296
Office	61,668	60,609	182,662	174,728
	428,389	376,207	1,262,715	1,111,024
Office building services costs	431	418	1,080	1,708
General, administrative and professional fees	39,677	33,317	113,507	100,560
Loss on extinguishment of debt, net	39,527	511	50,411	856
Merger-related expenses and deal costs	4,458	804	26,288	8,903
Other	1,244	13,030	7,891	16,066
Total expenses	839,886	751,563	2,469,228	2,230,660
Income before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	96,652	148,365	353,319	448,201
(Loss) income from unconsolidated entities	(716)	750	(47,826)	3,794
Income tax benefit	7,327	7,815	11,303	13,119
Income from continuing operations	103,263	156,930	316,796	465,114
Discontinued operations	—	(19)	(10)	(95)
Gain on real estate dispositions	18	458,280	35,893	502,288
Net income	103,281	615,191	352,679	967,307
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Net income attributable to common stockholders	<u>\$ 101,972</u>	<u>\$ 613,958</u>	<u>\$ 347,194</u>	<u>\$ 963,916</u>
<b>Earnings per common share</b>				
Basic:				
Income from continuing operations	\$ 0.29	\$ 0.44	\$ 0.89	\$ 1.31
Net income attributable to common stockholders	0.29	1.72	0.97	2.71
Diluted:				
Income from continuing operations	\$ 0.29	\$ 0.44	\$ 0.88	\$ 1.30
Net income attributable to common stockholders	0.28	1.71	0.97	2.69
<b>Weighted average shares used in computing earnings per common share:</b>				
Basic	356,318	355,929	356,224	355,110
Diluted	359,355	359,333	359,068	358,365
Dividends declared per common share	<u>\$ 0.79</u>	<u>\$ 0.775</u>	<u>\$ 2.37</u>	<u>\$ 2.325</u>

See accompanying notes.

**VENTAS, INC.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**(Unaudited)**

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands)			
Net income	\$ 103,281	\$ 615,191	\$ 352,679	\$ 967,307
Other comprehensive income:				
Foreign currency translation	(5,018)	5,239	(8,061)	17,607
Unrealized gain (loss) on marketable debt securities	5,131	(48)	17,816	(233)
Other	2,801	(936)	17,418	(620)
Total other comprehensive income	2,914	4,255	27,173	16,754
Comprehensive income	106,195	619,446	379,852	984,061
Comprehensive income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Comprehensive income attributable to common stockholders	<u>\$ 104,886</u>	<u>\$ 618,213</u>	<u>\$ 374,367</u>	<u>\$ 980,670</u>

See accompanying notes.

**VENTAS, INC.**  
**CONSOLIDATED STATEMENTS OF EQUITY**  
For the Nine Months Ended September 30, 2018 and the Year Ended December 31, 2017  
(Unaudited)

	Common Stock Par Value	Capital in Excess of Par Value	Accumulated Other Comprehensive Loss	Retained Earnings (Deficit)	Treasury Stock	Total Ventas Stockholders' Equity	Noncontrolling Interests	Total Equity
(In thousands, except per share amounts)								
Balance at January 1, 2017	\$ 88,514	\$ 12,917,002	\$ (57,534)	\$ (2,487,695)	\$ (47)	\$ 10,460,240	\$ 68,513	\$ 10,528,753
Net income	—	—	—	1,356,470	—	1,356,470	4,642	1,361,112
Other comprehensive income	—	—	22,414	—	—	22,414	—	22,414
Impact of CCP Spin-Off	—	107	—	—	—	107	—	107
Net change in noncontrolling interests	—	(1,427)	—	—	—	(1,427)	(13,292)	(14,719)
Dividends to common stockholders —\$3.115 per share	—	—	—	(1,109,473)	—	(1,109,473)	—	(1,109,473)
Issuance of common stock	276	72,618	—	—	553	73,447	—	73,447
Issuance of common stock for stock plans	87	21,723	—	—	796	22,606	—	22,606
Change in redeemable noncontrolling interests	—	(850)	—	—	—	(850)	6,096	5,246
Adjust redeemable OP Unitholder Interests to current fair value	—	253	—	—	—	253	—	253
Redemption of OP and Class C Units	84	19,845	—	—	3,207	23,136	—	23,136
Grant of restricted stock, net of forfeitures	68	23,786	—	—	(4,551)	19,303	—	19,303
Balance at December 31, 2017	89,029	13,053,057	(35,120)	(2,240,698)	(42)	10,866,226	65,959	10,932,185
Net income	—	—	—	347,194	—	347,194	5,485	352,679
Other comprehensive income	—	—	27,173	—	—	27,173	—	27,173
Net change in noncontrolling interests	—	(1,426)	—	—	—	(1,426)	(11,214)	(12,640)
Dividends to common stockholders —\$2.37 per share	—	—	—	(846,432)	—	(846,432)	—	(846,432)
Issuance of common stock for stock plans and other	26	6,179	—	—	1,238	7,443	—	7,443
Adjust redeemable OP Unitholder Interests to current fair value	—	8,878	—	—	—	8,878	—	8,878
Redemption of OP Units	—	(830)	—	—	234	(596)	—	(596)
Grant of restricted stock, net of forfeitures	45	15,466	—	—	(1,775)	13,736	—	13,736
Cumulative effect change in accounting principles	—	—	—	30,643	—	30,643	—	30,643
Balance at September 30, 2018	<u>\$ 89,100</u>	<u>\$ 13,081,324</u>	<u>\$ (7,947)</u>	<u>\$ (2,709,293)</u>	<u>\$ (345)</u>	<u>\$ 10,452,839</u>	<u>\$ 60,230</u>	<u>\$ 10,513,069</u>

See accompanying notes.

**VENTAS, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Uaudited)

	For the Nine Months Ended September 30,	
	2018	2017
	(In thousands)	
Cash flows from operating activities:		
Net income	\$ 352,679	\$ 967,307
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	675,363	655,298
Amortization of deferred revenue and lease intangibles, net	(26,001)	(16,283)
Other non-cash amortization	13,527	11,186
Stock-based compensation	20,761	19,923
Straight-lining of rental income, net	19,983	(17,384)
Loss on extinguishment of debt, net	50,411	856
Gain on real estate dispositions	(35,893)	(502,288)
Gain on real estate loan investments	(13,202)	(124)
Income tax benefit	(13,464)	(15,619)
Loss (income) from unconsolidated entities	47,826	(767)
Gain on re-measurement of equity interest upon acquisition, net	—	(3,027)
Distributions from unconsolidated entities	2,734	3,909
Other	390	7,439
Changes in operating assets and liabilities:		
Increase in other assets	(34,879)	(21,612)
(Decrease) increase in accrued interest	(17,508)	12,688
Decrease in accounts payable and other liabilities	(25,105)	(19,277)
Net cash provided by operating activities	1,017,622	1,082,225
Cash flows from investing activities:		
Net investment in real estate property	(35,800)	(346,491)
Investment in loans receivable	(212,089)	(734,033)
Proceeds from real estate disposals	331,243	614,753
Proceeds from loans receivable	866,313	84,361
Development project expenditures	(230,348)	(210,423)
Capital expenditures	(73,025)	(83,387)
Distributions from unconsolidated entities	57,430	5,816
Investment in unconsolidated entities	(45,106)	(42,399)
Insurance proceeds for property damage claims	6,327	1,393
Net cash provided by (used in) investing activities	664,945	(710,410)
Cash flows from financing activities:		
Net change in borrowings under revolving credit facilities	41,292	384,738
Proceeds from debt	2,412,420	1,058,437
Repayment of debt	(3,294,104)	(1,225,525)
Purchase of noncontrolling interests	(2,429)	(15,809)
Payment of deferred financing costs	(16,583)	(26,426)
Issuance of common stock, net	—	73,596
Cash distribution to common stockholders	(845,248)	(827,285)
Cash distribution to redeemable OP Unitholders	(5,594)	(5,677)
Cash issued for redemption of OP and Class C Units	(1,370)	—
Contributions from noncontrolling interests	500	4,402
Distributions to noncontrolling interests	(9,968)	(9,248)
Other	(736)	10,543
Net cash used in financing activities	(1,721,820)	(578,254)
Net decrease in cash, cash equivalents and restricted cash	(39,253)	(206,439)
Effect of foreign currency translation	(453)	670
Cash, cash equivalents and restricted cash at beginning of period	188,253	367,354
Cash, cash equivalents and restricted cash at end of period	\$ 148,547	\$ 161,585

See accompanying notes.



**VENTAS, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)**  
**(Unaudited)**

For the Nine Months Ended

September 30,

2018

2017

(In thousands)

**Supplemental schedule of non-cash activities:**

Assets acquired and liabilities assumed from acquisitions and other:

	\$ 29,106	\$ 206,771
Real estate investments	—	(84,995)
Utilization of funds held for an Internal Revenue Code Section 1031 exchange	4,112	(5,546)
Other assets	—	64,629
Debt	16,134	64,090
Other liabilities	—	(16,116)
Deferred income tax liability	—	3,627
Noncontrolling interests	266	22,694
Equity issued for redemption of OP and Class C Units		

See accompanying notes.

**VENTAS, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**NOTE 1—DESCRIPTION OF BUSINESS**

Ventas, Inc. (together with its subsidiaries, unless otherwise indicated or except where the context otherwise requires, “we,” “us” or “our”), an S&P 500 company, is a real estate investment trust (“REIT”) with a highly diversified portfolio of seniors housing, life science and innovation and healthcare properties located throughout the United States, Canada and the United Kingdom. As of September 30, 2018, we owned approximately 1,200 properties (including properties owned through investments in unconsolidated entities and properties classified as held for sale), consisting of seniors housing communities, medical office buildings (“MOBs”), life science and innovation centers, inpatient rehabilitation facilities (“IRFs”) and long-term acute care facilities (“LTACs”), health systems and skilled nursing facilities (“SNFs”), and we had 16 properties under development, including five properties that are owned by unconsolidated real estate entities. Our company was originally founded in 1983 and is headquartered in Chicago, Illinois.

We primarily invest in seniors housing, life science and innovation and healthcare properties through acquisitions and lease our properties to unaffiliated tenants or operate them through independent third-party managers. As of September 30, 2018, we leased a total of 468 properties (excluding properties within our office operations reportable business segment) to various healthcare operating companies under “triple-net” or “absolute-net” leases that obligate the tenants to pay all property-related expenses, including maintenance, utilities, repairs, taxes, insurance and capital expenditures.

As of September 30, 2018, pursuant to long-term management agreements, we engaged independent operators, such as Atria Senior Living, Inc. (“Atria”) and Sunrise Senior Living, LLC (together with its subsidiaries, “Sunrise”), to manage 360 seniors housing communities for us.

Our three largest tenants, Brookdale Senior Living Inc. (together with its subsidiaries, “Brookdale Senior Living”), Ardent Health Partners, LLC (together with its subsidiaries, “Ardent”) and Kindred Healthcare, LLC (formerly Kindred Healthcare, Inc., together with its subsidiaries, “Kindred”) leased from us 135 properties (excluding one property managed by Brookdale Senior Living pursuant to a long-term management agreement), 11 properties and 32 properties, respectively, as of September 30, 2018.

Through our Lillibridge Healthcare Services, Inc. subsidiary and our ownership interest in PMB Real Estate Services LLC, we also provide MOB management, leasing, marketing, facility development and advisory services to highly rated hospitals and health systems throughout the United States. In addition, from time to time, we make secured and non-mortgage loans and other investments relating to seniors housing and healthcare operators or properties.

**NOTE 2—ACCOUNTING POLICIES**

The accompanying Consolidated Financial Statements have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim financial information set forth in the Accounting Standards Codification (“ASC”), as published by the Financial Accounting Standards Board (“FASB”), and with the Securities and Exchange Commission (“SEC”) instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair statement of results for the interim period have been included. Operating results for the three and nine months ended September 30, 2018 are not necessarily indicative of the results that may be expected for the year ending December 31, 2018. The accompanying Consolidated Financial Statements and related notes should be read in conjunction with the audited Consolidated Financial Statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2017, filed with the SEC on February 9, 2018. Certain prior period amounts have been reclassified to conform to the current period presentation.

***Principles of Consolidation***

The accompanying Consolidated Financial Statements include our accounts and the accounts of our wholly owned subsidiaries and the joint venture entities over which we exercise control. All intercompany transactions and balances have been eliminated in consolidation, and our net earnings are reduced by the portion of net earnings attributable to noncontrolling interests.

GAAP requires us to identify entities for which control is achieved through means other than voting rights and to determine which business enterprise is the primary beneficiary of variable interest entities (“VIEs”). A VIE is broadly defined as an entity with one or more of the following characteristics: (a) the total equity investment at risk is insufficient to finance the

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

entity's activities without additional subordinated financial support; (b) as a group, the holders of the equity investment at risk lack (i) the ability to make decisions about the entity's activities through voting or similar rights, (ii) the obligation to absorb the expected losses of the entity, or (iii) the right to receive the expected residual returns of the entity; and (c) the equity investors have voting rights that are not proportional to their economic interests, and substantially all of the entity's activities either involve, or are conducted on behalf of, an investor that has disproportionately few voting rights. We consolidate our investment in a VIE when we determine that we are its primary beneficiary. We may change our original assessment of a VIE upon subsequent events such as the modification of contractual arrangements that affects the characteristics or adequacy of the entity's equity investments at risk and the disposition of all or a portion of an interest held by the primary beneficiary.

We identify the primary beneficiary of a VIE as the enterprise that has both: (i) the power to direct the activities of the VIE that most significantly impact the entity's economic performance; and (ii) the obligation to absorb losses or the right to receive benefits of the VIE that could be significant to the entity. We perform this analysis on an ongoing basis.

As it relates to investments in joint ventures, GAAP may preclude consolidation by the sole general partner in certain circumstances based on the type of rights held by the limited partner or partners. We assess limited partners' rights and their impact on our consolidation conclusions, and we reassess if there is a change to the terms or in the exercisability of the rights of the limited partners, the sole general partner increases or decreases its ownership of limited partnership ("LP") interests or there is an increase or decrease in the number of outstanding LP interests. We also apply this guidance to managing member interests in limited liability companies ("LLCs").

We consolidate several VIEs that share the following common characteristics:

- the VIE is in the legal form of an LP or LLC;
- the VIE was designed to own and manage its underlying real estate investments;
- we are the general partner or managing member of the VIE;
- we own a majority of the voting interests in the VIE;
- a minority of voting interests in the VIE are owned by external third parties, unrelated to us;
- the minority owners do not have substantive kick-out or participating rights in the VIE; and
- we are the primary beneficiary of the VIE.

We have separately identified certain special purpose entities that were established to allow investments in life science projects by tax credit investors ("TCIs"). We have determined that these special purpose entities are VIEs and that we are the primary beneficiary of the VIEs, and therefore we consolidate these special purpose entities. Our primary beneficiary determination is based upon several factors, including but not limited to the rights we have in directing the activities which most significantly impact the VIEs' economic performance as well as certain guarantees which protect the TCIs from losses should a tax credit recapture event occur.

In general, the assets of consolidated VIEs are available only for the settlement of the obligations of the respective entities. Unless otherwise required by the LP or LLC agreement, any mortgage loans of the consolidated VIEs are non-recourse to us. The table below summarizes the total assets and liabilities of our consolidated VIEs as reported on our Consolidated Balance Sheets.

	September 30, 2018		December 31, 2017	
	Total Assets	Total Liabilities	Total Assets	Total Liabilities
NHP/PMB L.P.	\$ 589,436	\$ 198,163	\$ 605,150	\$ 199,958
Other identified VIEs	1,840,520	303,440	1,983,183	348,124
Tax credit VIEs	801,694	304,234	988,598	221,908

***Investments in Unconsolidated Entities***

We report investments in unconsolidated entities over whose operating and financial policies we have the ability to exercise significant influence under the equity method of accounting. Under this method of accounting, our share of the investee's earnings or losses is included in our Consolidated Statements of Income.

We base the initial carrying value of investments in unconsolidated entities on the fair value of the assets at the time we acquired the joint venture interest. We estimate fair values for our equity method investments based on discounted cash

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

flow models that include all estimated cash inflows and outflows over a specified holding period and, where applicable, any estimated debt premiums or discounts. The capitalization rates, discount rates and credit spreads we use in these models are based upon assumptions that we believe to be within a reasonable range of current market rates for the respective investments.

We generally amortize any difference between our cost basis and the basis reflected at the joint venture level, if any, over the lives of the related assets and liabilities and include that amortization in our share of income or loss from unconsolidated entities. For earnings of equity method investments with pro rata distribution allocations, net income or loss is allocated between the partners in the joint venture based on their respective stated ownership percentages. In other instances, net income or loss is allocated between the partners in the joint venture based on the hypothetical liquidation at book value method (the “HLBV method”). Under the HLBV method, net income or loss is allocated between the partners based on the difference between each partner’s claim on the net assets of the joint venture at the end and beginning of the period, after taking into account contributions and distributions. Each partner’s share of the net assets of the joint venture is calculated as the amount that the partner would receive if the joint venture were to liquidate all of its assets at net book value and distribute the resulting cash to creditors and partners in accordance with their respective priorities. Under the HLBV method, in any given period, we could record more or less income than the joint venture has generated, than actual cash distributions we receive or than the amount we may receive in the event of an actual liquidation.

***Redeemable OP Unitholder and Noncontrolling Interests***

We own a majority interest in NHP/PMB L.P. (“NHP/PMB”), a limited partnership formed in 2008 to acquire properties from entities affiliated with Pacific Medical Buildings LLC. Given our wholly owned subsidiary is the general partner and the primary beneficiary of NHP/PMB, we consolidate it as a VIE. As of September 30, 2018, third party investors owned 2.7 million Class A limited partnership units in NHP/PMB (“OP Units”), which represented 27% of the total units then outstanding, and we owned 7.2 million Class B limited partnership units in NHP/PMB, representing the remaining 73%. At any time following the first anniversary of the date of their issuance, the OP Units may be redeemed at the election of the holder for cash or, at our option, 0.9051 shares of our common stock per OP Unit, subject to further adjustment in certain circumstances. We are party by assumption to a registration rights agreement with the holders of the OP Units that requires us, subject to the terms and conditions and certain exceptions set forth therein, to file and maintain a registration statement relating to the issuance of shares of our common stock upon redemption of OP Units.

Prior to January 2017, we owned a majority interest in Ventas Realty Capital Healthcare Trust Operating Partnership, L.P. (“Ventas Realty OP”) and we consolidated this entity because our wholly owned subsidiary is the general partner and was the primary beneficiary of this VIE. In January 2017, third party investors redeemed the remaining limited partnership units (“Class C Units”) outstanding. After giving effect to such redemptions, Ventas Realty OP is our wholly owned subsidiary.

As redemption rights are outside of our control, the redeemable OP Units and Class C Units (together, the “OP Unitholder Interests”) are classified outside of permanent equity on our Consolidated Balance Sheets. We reflect the redeemable OP Unitholder Interests at the greater of cost or fair value. As of September 30, 2018 and December 31, 2017, the fair value of the redeemable OP Unitholder Interests was \$131.0 million and \$146.3 million, respectively. We recognize changes in fair value through capital in excess of par value, net of cash distributions paid and purchases by us of any OP Unitholder Interests. Our diluted earnings per share includes the effect of any potential shares outstanding from redemption of the OP Unitholder Interests.

Certain noncontrolling interests of other consolidated joint ventures were also classified as redeemable at September 30, 2018 and December 31, 2017. Accordingly, we record the carrying amount of these noncontrolling interests at the greater of their initial carrying amount (increased or decreased for the noncontrolling interests’ share of net income or loss and distributions) or the redemption value. Our joint venture partners have certain redemption rights with respect to their noncontrolling interests in these joint ventures that are outside of our control, and the redeemable noncontrolling interests are classified outside of permanent equity on our Consolidated Balance Sheets. We recognize changes in the carrying value of redeemable noncontrolling interests through capital in excess of par value.

***Noncontrolling Interests***

Excluding the redeemable noncontrolling interests described above, we present the portion of any equity that we do not own in entities that we control (and thus consolidate) as noncontrolling interests and classify those interests as a component of consolidated equity, separate from total Ventas stockholders’ equity, on our Consolidated Balance Sheets. For consolidated joint ventures with pro rata distribution allocations, net income or loss is allocated between the joint venture partners based on their respective stated ownership percentages. In other cases, net income or loss is allocated between the joint venture partners based on the HLBV method. We account for purchases or sales of equity interests that do not result in a change of control as

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

equity transactions, through capital in excess of par value. In addition, we include net income attributable to the noncontrolling interests in net income in our Consolidated Statements of Income.

***Accounting for Historic and New Markets Tax Credits***

For certain of our life science and innovation centers, we are party to contractual arrangements with TCIs that were established to enable the TCIs to receive benefits of historic tax credits (“HTCs”) and/or new markets tax credits (“NMTCs”). As of September 30, 2018, we owned nine properties that had syndicated HTCs or NMTCs, or both, to TCIs.

In general, capital contributions are made by TCIs into special purpose entities that invest in entities that own the subject property and generate the tax credits. The TCIs receive substantially all of the tax credits and hold only a noncontrolling interest in the economic risk and benefits of the special purpose entities.

HTCs are delivered to the TCIs upon substantial completion of the project. NMTCs are allowed for up to 39% of a qualified investment and are delivered to the TCIs after the investment has been funded and spent on a qualified business. HTCs are subject to 20% recapture per year beginning one year after the completion of the historic rehabilitation of the subject property. NMTCs are subject to 100% recapture until the end of the seventh year following the qualifying investment. We have provided the TCIs with certain guarantees which protect the TCIs from losses should a tax credit recapture event occur. The contractual arrangements with the TCIs include a put/call provision whereby we may be obligated or entitled to repurchase the ownership interest of the TCIs in the special purpose entities at the end of the tax credit recapture period. We anticipate that either the TCIs will exercise their put rights or we will exercise our call rights prior to the applicable tax credit recapture periods.

The portion of the TCI’s capital contribution that is attributed to the put is recorded at fair value at inception in accounts payable and other liabilities on our Consolidated Balance Sheets, and is accreted to the expected put price as interest expense in our Consolidated Statements of Income over the recapture period. The remaining balance of the TCI’s capital contribution is initially recorded in accounts payable and other liabilities on our Consolidated Balance Sheets and will be relieved upon delivery of the tax credit to the TCI, as a reduction in the carrying value of the subject property, net of allocated expenses. Direct and incremental costs incurred in structuring the transaction are deferred and will be recognized as an increase in the cost basis of the subject property upon the recognition of the related tax credit as discussed above.

***Impairment of Long-Lived and Intangible Assets***

We periodically evaluate our long-lived assets, primarily consisting of investments in real estate, for impairment indicators. If indicators of impairment are present, we evaluate the carrying value of the related real estate investments in relation to the future undiscounted cash flows of the underlying operations. In performing this evaluation, we consider market conditions and our current intentions with respect to holding or disposing of the asset. We adjust the net book value of leased properties and other long-lived assets to fair value if the sum of the expected future undiscounted cash flows, including sales proceeds, is less than book value. We recognize an impairment loss at the time we make any such determination.

If impairment indicators arise with respect to intangible assets with finite useful lives, we evaluate impairment by comparing the carrying amount of the asset to the estimated future undiscounted net cash flows expected to be generated by the asset. If estimated future undiscounted net cash flows are less than the carrying amount of the asset, then we estimate the fair value of the asset and compare the estimated fair value to the intangible asset’s carrying value. We recognize any shortfall from carrying value as an impairment loss in the current period.

We evaluate our investments in unconsolidated entities for impairment at least annually, and whenever events or changes in circumstances indicate that the carrying value of our investment may exceed its fair value. If we determine that a decline in the fair value of our investment in an unconsolidated entity is other-than-temporary, and if such reduced fair value is below the carrying value, we record an impairment.

We test goodwill for impairment at least annually, and more frequently if indicators arise. We first assess qualitative factors, such as current macroeconomic conditions, state of the equity and capital markets and our overall financial and operating performance, to determine the likelihood that the fair value of a reporting unit is less than its carrying amount. If we determine it is more likely than not that the fair value of a reporting unit is less than its carrying amount, we proceed with the two-step approach to evaluating impairment. First, we estimate the fair value of the reporting unit and compare it to the reporting unit’s carrying value. If the carrying value exceeds fair value, we proceed with the second step, which requires us to assign the fair value of the reporting unit to all of the assets and liabilities of the reporting unit as if it had been acquired in a business combination at the date of the impairment test. The excess fair value of the reporting unit over the amounts assigned

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

to the assets and liabilities is the implied value of goodwill and is used to determine the amount of impairment. We recognize an impairment loss to the extent the carrying value of goodwill exceeds the implied value in the current period.

Estimates of fair value used in our evaluation of goodwill (if necessary based on our qualitative assessment), investments in real estate, investments in unconsolidated entities and intangible assets are based upon discounted future cash flow projections or other acceptable valuation techniques that are based, in turn, upon all available evidence including level three inputs, such as revenue and expense growth rates, estimates of future cash flows, capitalization rates, discount rates, general economic conditions and trends, or other available market data. Our ability to accurately predict future operating results and cash flows and to estimate and determine fair values impacts the timing and recognition of impairments. While we believe our assumptions are reasonable, changes in these assumptions may have a material impact on our financial results.

***Assets Held for Sale and Discontinued Operations***

We sell properties from time to time for various reasons, including favorable market conditions or the exercise of purchase options by tenants. We classify certain long-lived assets as held for sale once the criteria, as defined by GAAP, have been met. Long-lived assets to be disposed of are reported at the lower of their carrying amount or fair value minus cost to sell and are no longer depreciated.

If at any time we determine that the criteria for classifying assets as held for sale are no longer met we reclassify assets within net real estate investments on our Consolidated Balance Sheets for all periods presented. The carrying amount of these assets is adjusted (in the period in which a change in classification is determined) to reflect any depreciation expense that would have been recognized had the asset been continuously classified as net real estate investments.

We report discontinued operations when the following criteria are met: (1) a component of an entity or group of components has been disposed of or classified as held for sale and represents a strategic shift that has or will have a major effect on an entity's operations and financial results; or (2) an acquired business is classified as held for sale on the acquisition date. The results of operations for assets meeting the definition of discontinued operations are reflected in our Consolidated Statements of Income as discontinued operations for all periods presented. We allocate estimated interest expense to discontinued operations based on property values and our weighted average interest rate or the property's actual mortgage interest.

***Gain on Sale of Assets***

On January 1, 2018, we adopted the provisions of ASC 610-20, *Gains and Losses from the Derecognition of Nonfinancial Assets* ("ASC 610-20"). In accordance with ASC 610-20, we recognize any gains when we transfer control of a property and when it is probable that we will collect substantially all of the related consideration. We adopted ASC 610-20 using the modified retrospective method and recognized a cumulative effect adjustment to retained earnings of \$31.2 million relating to deferred gains on sales of real estate assets in 2015.

***Fair Values of Financial Instruments***

Fair value is a market-based measurement, not an entity-specific measurement, and we determine fair value based on the assumptions that we expect market participants would use in pricing the asset or liability. As a basis for considering market participant assumptions in fair value measurements, GAAP establishes a fair value hierarchy that distinguishes between market participant assumptions based on market data obtained from sources independent of the reporting entity (observable inputs that are classified within levels one and two of the hierarchy) and the reporting entity's own assumptions about market participant assumptions (unobservable inputs classified within level three of the hierarchy).

Level one inputs utilize unadjusted quoted prices for identical assets or liabilities in active markets that we have the ability to access. Level two inputs are inputs other than quoted prices included in level one that are directly or indirectly observable for the asset or liability. Level two inputs may include quoted prices for similar assets and liabilities in active markets and other inputs for the asset or liability that are observable at commonly quoted intervals, such as interest rates, foreign exchange rates and yield curves. Level three inputs are unobservable inputs for the asset or liability, which typically are based on our own assumptions, because there is little, if any, related market activity. If the determination of the fair value measurement is based on inputs from different levels of the hierarchy, the level within which the entire fair value measurement falls is the lowest level input that is significant to the fair value measurement in its entirety. If the volume and level of market activity for an asset or liability has decreased significantly relative to the normal market activity for such asset or liability (or similar assets or liabilities), then transactions or quoted prices may not accurately reflect fair value. In addition, if there is evidence that a transaction for an asset or liability is not orderly, little, if any, weight is placed on that transaction price as an

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

indicator of fair value. Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the asset or liability.

We use the following methods and assumptions in estimating the fair value of our financial instruments.

- *Cash and cash equivalents* - The carrying amount of unrestricted cash and cash equivalents reported on our Consolidated Balance Sheets approximates fair value due to the short maturity of these instruments.
- *Escrow deposits and restricted cash* - The carrying amount of escrow deposits and restricted cash reported on our Consolidated Balance Sheets approximates fair value due to the short maturity of these instruments.
- *Loans receivable* - We estimate the fair value of loans receivable using level two and level three inputs. We discount future cash flows using current interest rates at which similar loans with the same terms and length to maturity would be made to borrowers with similar credit ratings.
- *Marketable debt securities* - We estimate the fair value of corporate bonds, if any, using level two inputs. We observe quoted prices for similar assets or liabilities in active markets that we have the ability to access. We estimate the fair value of certain government-sponsored pooled loan investments using level three inputs. We consider credit spreads, underlying asset performance and credit quality, and default rates.
- *Derivative instruments* - With the assistance of a third party, we estimate the fair value of derivative instruments, including interest rate caps, interest rate swaps, and foreign currency forward contracts, using level two inputs.
  - Interest rate caps - We observe forward yield curves and other relevant information;
  - Interest rate swaps - We observe alternative financing rates derived from market-based financing rates, forward yield curves and discount rates; and
  - Foreign currency forward contracts - We estimate the future values of the two currency tranches using forward exchange rates that are based on traded forward points and calculate a present value of the net amount using a discount factor based on observable traded interest rates.
- *Senior notes payable and other debt* - We estimate the fair value of senior notes payable and other debt using level two inputs. We discount the future cash flows using current interest rates at which we could obtain similar borrowings. For mortgage debt, we may estimate fair value using level three inputs, similar to those used in determining fair value of loans receivable (above).
- *Redeemable OP Unitholder Interests* - We estimate the fair value of our redeemable OP Unitholder Interests using level one inputs. We base fair value on the closing price of our common stock, as OP Units (and previously Class C Units) may be redeemed at the election of the holder for cash or, at our option, shares of our common stock, subject to adjustment in certain circumstances.

**Revenue Recognition**

*Adoption of ASC 606*

On January 1, 2018, we adopted ASC 606, *Revenue from Contracts with Customers* (“ASC 606”), which outlines a comprehensive model for entities to use in accounting for revenue arising from contracts with customers. ASC 606 states that “an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.” We account for revenues from management contracts (within office building and other services revenue in our Consolidated Statements of Income) and certain point-of-sale transactions (within resident fees and services in our Consolidated Statements of Income) in accordance with ASC 606. The pattern and timing of recognition of income is consistent with the prior accounting model. All other revenues, primarily rental income from leasing activities, is accounted for in accordance with other applicable GAAP. We adopted ASC 606 using the modified retrospective method.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

*Triple-Net Leased Properties and Office Operations*

Certain of our triple-net leases and most of our MOB and life science and innovation center (collectively, “office operations”) leases provide for periodic and determinable increases in base rent. We recognize base rental revenues under these leases on a straight-line basis over the applicable lease term when collectability is reasonably assured. Recognizing rental income on a straight-line basis generally results in recognized revenues during the first half of a lease term exceeding the cash amounts contractually due from our tenants, creating a straight-line rent receivable that is included in other assets on our Consolidated Balance Sheets. At September 30, 2018 and December 31, 2017, this cumulative excess totaled \$244.4 million (net of allowances of \$44.4 million) and \$267.8 million (net of allowances of \$117.8 million), respectively (excluding properties classified as held for sale).

Certain of our leases provide for periodic increases in base rent only if certain revenue parameters or other substantive contingencies are met. We recognize the increased rental revenue under these leases as the related parameters or contingencies are met, rather than on a straight-line basis over the applicable lease term.

*Senior Living Operations*

We recognize resident fees and services, other than move-in fees, monthly as services are provided. We recognize move-in fees on a straight-line basis over the average resident stay.

*Other*

We recognize interest income from loans and investments, including discounts and premiums, using the effective interest method when collectability is reasonably assured. We apply the effective interest method on a loan-by-loan basis and recognize discounts and premiums as yield adjustments over the related loan term. We recognize interest income on an impaired loan to the extent our estimate of the fair value of the collateral is sufficient to support the balance of the loan, other receivables and all related accrued interest. When the balance of the loan, other receivables and all related accrued interest is equal to or less than our estimate of the fair value of the collateral, we recognize interest income on a cash basis. We provide a reserve against an impaired loan to the extent our total investment in the loan exceeds our estimate of the fair value of the loan collateral.

*Allowances*

We assess the collectability of our rent receivables, including straight-line rent receivables. We base our assessment of the collectability of rent receivables (other than straight-line rent receivables) on several factors, including, among other things, payment history, the financial strength of the tenant and any guarantors, the value of the underlying collateral, if any, and current economic conditions. If our evaluation of these factors indicates it is probable that we will be unable to recover the full value of the receivable, we provide a reserve against the portion of the receivable that we estimate may not be recovered. We base our assessment of the collectability of straight-line rent receivables on several factors, including, among other things, the financial strength of the tenant and any guarantors, the historical operations and operating trends of the property, the historical payment pattern of the tenant and the type of property. If our evaluation of these factors indicates it is probable that we will be unable to receive the rent payments due in the future, we provide a reserve against the recognized straight-line rent receivable asset for the portion, up to its full value, that we estimate may not be recovered. If we change our assumptions or estimates regarding the collectability of future rent payments required by a lease, we may adjust our reserve to increase or reduce the rental revenue recognized in the period we make such change in our assumptions or estimates.

*Recently Issued or Adopted Accounting Standards*

In February 2016, the FASB established ASC Topic 842, *Leases* (“ASC 842”) by issuing ASU 2016-02, *Leases* (“ASU 2016-02”), which introduces a lessee model that brings most leases on the balance sheet and, among other changes, eliminates the requirement in current GAAP for an entity to use bright-line tests in determining lease classification. ASC 842 has subsequently been amended by other issued ASUs to clarify and improve the standard as well as to provide certain practical expedients.

ASC 842 allows for several practical expedients which permit the following: no reassessment of lease classification or initial direct costs; use of the standard’s effective date as the date of initial application; and no separation of non-lease components from the related lease components and, instead, to account for those components as a single lease component if certain criteria are met. We expect to elect these practical expedients and adopt ASC 842 on January 1, 2019 using the effective date as our date.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

of initial application. Therefore, financial information and disclosures under ASC 842 will not be provided for periods prior to January 1, 2019.

Upon adoption, we will recognize both right of use assets and lease liabilities for leases in which we lease land, real property or other equipment. We will also begin reporting revenues and expenses within our triple-net leased properties reportable business segment for real estate taxes and insurance that are the obligations of the tenants in accordance with their respective leases with us. This reporting will have no impact on our net income. Resident leases within our senior living operations reportable business segment are accounted for as leases but also contain service elements. We expect to elect the practical expedient to account for our resident leases as a single lease component. Also, upon adoption, we will begin expensing certain leasing costs, other than leasing commissions, as they are incurred, which may reduce our net income. Current GAAP provides for the deferral and amortization of such costs over the applicable lease term. We will continue to amortize any unamortized deferred lease costs as of December 31, 2018 over their respective lease terms. We are currently evaluating the initial balance sheet impact and developing processes and internal controls to account for all leases under ASC 842.

On January 1, 2018, we adopted ASU 2016-15, *Classification of Certain Cash Receipts and Cash Payments* (“ASU 2016-15”), which provides clarification regarding how certain cash receipts and cash payments are presented and classified in the statement of cash flows and ASU 2016-18, *Restricted Cash* (“ASU 2016-18”), which requires an entity to show the changes in total cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. We adopted these ASUs by applying a retrospective transition method which required a restatement of our Consolidated Statement of Cash Flows for all periods presented.

On January 1, 2018, we adopted ASU 2016-16, *Intra-Entity Transfers of Assets Other Than Inventory* (“ASU 2016-16”), which requires a company to recognize the tax consequences of an intra-entity transfer of an asset, other than inventory, when the transfer occurs. We adopted ASU 2016-16 by applying a modified retrospective method which resulted in a cumulative effect adjustment to retained earnings of \$0.6 million.

**NOTE 3—CONCENTRATION OF CREDIT RISK**

As of September 30, 2018, Atria, Sunrise, Brookdale Senior Living, Ardent and Kindred managed or operated approximately 22.4%, 11.2%, 7.7%, 5.2% and 1.1%, respectively, of our consolidated real estate investments based on gross book value (excluding properties classified as held for sale as of September 30, 2018). Because Atria and Sunrise manage our properties in exchange for the receipt of a management fee from us, we are not directly exposed to the credit risk of our managers in the same manner or to the same extent as our triple-net tenants.

Based on gross book value, approximately 22.3% and 39.4% of our consolidated real estate investments were seniors housing communities included in the triple-net leased properties and senior living operations reportable business segments, respectively (excluding properties classified as held for sale as of September 30, 2018). MOBs, life science and innovation centers, IRFs and LTACs, health systems, SNFs and secured loans receivable and investments collectively comprised the remaining 38.3%. Our consolidated properties were located in 45 states, the District of Columbia, seven Canadian provinces and the United Kingdom as of September 30, 2018, with properties in one state (California) accounting for more than 10% of our total continuing revenues and net operating income (“NOL,” which is defined as total revenues, excluding interest and other income, less property-level operating expenses and office building services costs) for the three months then ended.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

***Triple-Net Leased Properties***

The following table reflects the concentration risk related to our triple-net leased properties for the periods presented:

	For the Three Months Ended September 30,	
	2018	2017
<b>Revenues<sup>(1)</sup>:</b>		
Brookdale Senior Living	4.8%	4.9%
Ardent	3.1	3.1
Kindred <sup>(2)</sup>	3.5	4.7
<b>NOI:</b>		
Brookdale Senior Living	8.9%	8.4%
Ardent	5.8	5.3
Kindred <sup>(2)</sup>	6.6	8.1

<sup>(1)</sup> Total revenues include office building and other services revenue, income from loans and investments and interest and other income.

<sup>(2)</sup> Includes 36 SNFs that were sold during 2017.

Each of our leases with Brookdale Senior Living, Ardent and Kindred is a triple-net lease that obligates the tenant to pay all property-related expenses, including maintenance, utilities, repairs, taxes, insurance and capital expenditures, and to comply with the terms of the mortgage financing documents, if any, affecting the properties. In addition, each of our Brookdale Senior Living, Ardent and Kindred leases has a corporate guaranty.

The properties we lease to Brookdale Senior Living, Ardent and Kindred accounted for a significant portion of our triple-net leased properties segment revenues and NOI for the three months ended September 30, 2018 and 2017. If any of Brookdale Senior Living, Ardent or Kindred becomes unable or unwilling to satisfy its obligations to us or to renew its leases with us upon expiration of the terms thereof, our financial condition and results of operations could decline, and our ability to service our indebtedness and to make distributions to our stockholders could be impaired. We cannot assure you that Brookdale Senior Living, Ardent and Kindred will have sufficient assets, income and access to financing to enable them to satisfy their respective obligations to us, and any failure, inability or unwillingness by Brookdale Senior Living, Ardent or Kindred to do so could have a material adverse effect on our business, financial condition, results of operations and liquidity, our ability to service our indebtedness and other obligations and our ability to make distributions to our stockholders, as required for us to continue to qualify as a REIT (a "Material Adverse Effect"). We also cannot assure you that Brookdale Senior Living, Ardent and Kindred will elect to renew their respective leases with us upon expiration of the leases or that we will be able to reposition any non-renewed properties on a timely basis or on the same or better economic terms, if at all.

In July 2018, Kindred closed transactions (the "Go Private Transactions") pursuant to which (a) Kindred would be acquired by a consortium of TPG Capital ("TPG"), Welsh, Carson, Anderson & Stowe ("WCAS") and Humana, Inc. and (b) immediately following the acquisition, (i) Kindred's home health, hospice and community care businesses would be separated from Kindred and operated as a standalone company owned by Humana, Inc., TPG and WCAS, and (ii) Kindred would be operated as a separate healthcare company owned by TPG and WCAS. In connection with the closing of the transactions, we received a payment from Kindred of \$12.3 million, which was recognized in interest and other income in our Consolidated Statements of Income during the third quarter of 2018.

In April 2018, we entered into various agreements with Brookdale Senior Living that provide for, among other things: (a) a consolidation of substantially all of our multiple lease agreements with Brookdale Senior Living into one master lease; (b) extension of the term for substantially all of our Brookdale Senior Living leased properties until December 31, 2025, with Brookdale Senior Living retaining two successive 10 year renewal options; and (c) the guarantee of all the Brookdale Senior Living obligations to us by Brookdale Senior Living Inc., including covenant protections for us. In connection with these agreements, we recognized a net non-cash expense of \$21.3 million for the acceleration of straight-line rent receivables, net unamortized market lease intangibles and deferred revenues, which is included in triple-net leased rental income in our Consolidated Statements of Income. We also received a fee of \$2.5 million that is being amortized over the new lease term.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

***Senior Living Operations***

As of September 30, 2018, Atria and Sunrise, collectively, provided comprehensive property management and accounting services with respect to 265 of our 360 seniors housing communities, for which we pay annual management fees pursuant to long-term management agreements.

We rely on our managers' personnel, expertise, technical resources and information systems, proprietary information, good faith and judgment to manage our senior living operations efficiently and effectively. We also rely on our managers to set appropriate resident fees and otherwise operate our seniors housing communities in compliance with the terms of our management agreements and all applicable laws and regulations. Although we have various rights as the property owner under our management agreements, including various rights to terminate and exercise remedies under the agreements as provided therein, Atria's or Sunrise's failure, inability or unwillingness to satisfy its respective obligations under those agreements, to efficiently and effectively manage our properties or to provide timely and accurate accounting information with respect thereto could have a Material Adverse Effect on us. In addition, significant changes in Atria's or Sunrise's senior management or equity ownership or any adverse developments in their businesses or financial condition could have a Material Adverse Effect on us.

Our 34% ownership interest in Atria entitles us to certain rights and minority protections, as well as the right to appoint two of six members on the Atria Board of Directors.

In January 2018, we transitioned the management of 76 private pay seniors housing communities to Eclipse Senior Living ("ESL"). These assets, substantially all of which were previously leased by Elmcroft Senior Living ("Elmcroft") under triple-net leases, are now operated by ESL under a management contract with us and are included in the senior living operations reportable business segment. Upon termination of our lease with Elmcroft, we derecognized our accumulated straight-line receivable balance and offsetting reserve of \$75.2 million. For the nine months ended September 30, 2018, we recognized \$20.9 million of transaction costs relating to this transaction, net of property-level net assets assumed for no consideration, included in merger-related expenses and deal costs in our Consolidated Statements of Income.

We also acquired a 34% ownership interest in ESL with customary rights and protections, including the right to appoint two of six members to the ESL Board of Directors. ESL management owns the 66% controlling interest.

***Brookdale Senior Living, Kindred, Atria, Sunrise and Ardent Information***

Brookdale Senior Living is subject to the reporting requirements of the SEC and is required to file with the SEC annual reports containing audited financial information and quarterly reports containing unaudited financial information. Kindred is not currently subject to the reporting requirements of the SEC, but was subject to such reporting requirements prior to the closing of the Go Private Transactions in July 2018. The information related to Brookdale Senior Living and Kindred contained or referred to in this Quarterly Report on Form 10-Q has been derived from SEC filings made by Brookdale Senior Living or Kindred, as the case may be, or other publicly available information, or was provided to us by Brookdale Senior Living or Kindred, and we have not verified this information through an independent investigation or otherwise. We have no reason to believe that this information is inaccurate in any material respect, but we cannot assure you of its accuracy. We are providing this data for informational purposes only, and you are encouraged to obtain Brookdale Senior Living's and Kindred's publicly available filings, which can be found at the SEC's website at [www.sec.gov](http://www.sec.gov).

Atria, Sunrise, Ardent and Kindred are not currently subject to the reporting requirements of the SEC. The information related to Atria, Sunrise, Ardent and Kindred contained or referred to in this Quarterly Report on Form 10-Q has been derived from publicly available information or was provided to us by Atria, Sunrise, Ardent or Kindred, as the case may be, and we have not verified this information through an independent investigation or otherwise. We have no reason to believe that this information is inaccurate in any material respect, but we cannot assure you of its accuracy.

**NOTE 4—DISPOSITIONS**

***2018 Activity***

During the nine months ended September 30, 2018, we sold seven seniors housing communities included in our senior living operations reportable business segment, five triple-net leased properties, nine MOBs and two vacant land parcels for aggregate consideration of \$326.1 million, and we recognized a gain on the sale of these assets of \$35.9 million.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**Real Estate Impairment**

We recognized impairments of \$10.7 million and \$20.2 million, respectively, for the nine months ended September 30, 2018 and 2017, which are recorded in depreciation and amortization in our Consolidated Statements of Income, and relate primarily to our office operations reportable business segment. Our recorded impairments were primarily the result of a change in our intent to hold the impaired assets. In most cases, we recognize an impairment in the periods in which our change in intent is made.

**Assets Held for Sale**

The table below summarizes our real estate assets classified as held for sale as of September 30, 2018 and December 31, 2017, including the amounts reported on our Consolidated Balance Sheets.

	September 30, 2018			December 31, 2017		
	Number of Properties Held for Sale	Assets Held for Sale	Liabilities Related to Assets Held for Sale	Number of Properties Held for Sale	Assets Held for Sale	Liabilities Related to Assets Held for Sale
			(Dollars in thousands)			(Dollars in thousands)
Office Operations	1	\$ 24,877	\$ 14,429	3	\$ 65,413	\$ 60,265
Senior Living Operations <sup>(1)</sup>	—	(697)	361	—	—	—
<b>Total</b>	<b>1</b>	<b>\$ 24,180</b>	<b>\$ 14,790</b>	<b>3</b>	<b>\$ 65,413</b>	<b>\$ 60,265</b>

<sup>(1)</sup> Balances relate to anticipated post-closing settlements of working capital.

In March 2018, five MOBs no longer met the criteria as being classified as held for sale. As a result, we adjusted the carrying amount of these assets by recognizing depreciation expense of \$5.7 million and classified these assets within net real estate investments on our Consolidated Balance Sheets for all periods presented.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**NOTE 5—LOANS RECEIVABLE AND INVESTMENTS**

As of September 30, 2018 and December 31, 2017, we had \$786.4 million and \$1.4 billion, respectively, of net loans receivable and investments relating to seniors housing and healthcare operators or properties. The following is a summary of our loans receivable and investments, net as of September 30, 2018 and December 31, 2017, including amortized cost, fair value and unrealized gains or losses on available-for-sale investments:

	<b>Carrying Amount</b>	<b>Amortized Cost</b>	<b>Fair Value</b>	<b>Unrealized Gain</b>
	(In thousands)			
<b>As of September 30, 2018:</b>				
Secured/mortgage loans and other, net	\$ 466,614	\$ 466,614	\$ 452,646	\$ —
Government-sponsored pooled loan investments, net <sup>(1)</sup>	61,237	53,292	61,237	7,945
Total investments reported as Secured loans receivable and investments, net	527,851	519,906	513,883	7,945
Non-mortgage loans receivable, net	50,478	50,478	49,915	—
Senior unsecured notes <sup>(2)</sup>	208,090	197,417	208,090	10,673
<b>Total loans receivable and investments, net</b>	<b>\$ 786,419</b>	<b>\$ 767,801</b>	<b>\$ 771,888</b>	<b>\$ 18,618</b>
<b>As of December 31, 2017:</b>				
Secured/mortgage loans and other, net	\$ 1,291,694	\$ 1,291,694	\$ 1,286,322	\$ —
Government-sponsored pooled loan investments, net <sup>(1)</sup>	54,665	53,863	54,665	802
Total investments reported as Secured loans receivable and investments, net	1,346,359	1,345,557	1,340,987	802
Non-mortgage loans receivable, net	59,857	59,857	58,849	—
<b>Total loans receivable and investments, net</b>	<b>\$ 1,406,216</b>	<b>\$ 1,405,414</b>	<b>\$ 1,399,836</b>	<b>\$ 802</b>

<sup>(1)</sup> Investments in government-sponsored pool loans have contractual maturity dates in 2023.

<sup>(2)</sup> Investments in senior unsecured notes have contractual maturity dates in 2026.

**2018 Activity**

During the nine months ended September 30, 2018, we received \$846.7 million for the full repayment of the principal balances of ten loans receivable with a weighted average interest rate of 9.1% that were due to mature between 2018 and 2033.

Included in the repayments above is \$713 million that we received in June 2018 for the full repayment of the principal balance of a \$700 million term loan and \$13 million then outstanding on a revolving line of credit we made to a subsidiary of Ardent. We also received a \$14.0 million cash pre-payment fee and accelerated recognition of the unamortized portion (\$13.2 million) of a previously received cash “upfront” fee for the loans, resulting in income of \$27.2 million, which is recorded in income from loans and investments in our Consolidated Statements of Income.

In June 2018, we also made a \$200 million investment in senior unsecured notes issued by a subsidiary of Ardent at a price of 98.6% of par value. The notes have an effective interest rate of 10.0% and mature in 2026. These investments are classified as available for sale and are reflected on our Consolidated Balance Sheets at fair value.

There was no impact on our 9.8% equity investment in Ardent as a result of these transactions.

**NOTE 6—INVESTMENTS IN UNCONSOLIDATED ENTITIES**

We report investments in unconsolidated entities over whose operating and financial policies we have the ability to exercise significant influence under the equity method of accounting. We are not required to consolidate these entities because our joint venture partners have significant participating rights, nor are these entities considered VIEs, as they are controlled by equity holders with sufficient capital. At September 30, 2018, we had 25% ownership interests in joint ventures that owned 31 properties, excluding properties under development. We account for our interests in real estate joint ventures, as well as our 34% interest in Atria, 34% interest in ESL and 9.8% interest in Ardent, which are included within other assets on our Consolidated Balance Sheets, under the equity method of accounting.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

With the exception of our interests in Atria, ESL and Ardent, we provide various services to each unconsolidated entity in exchange for fees and reimbursements. Total management fees earned in connection with these entities were \$1.1 million and \$1.6 million for the three months ended September 30, 2018 and 2017, respectively, and \$5.1 million and \$4.6 million for the nine months ended September 30, 2018 and 2017, respectively, which is included in office building and other services revenue in our Consolidated Statements of Income.

In March 2018, we recognized an impairment charge of \$35.7 million relating to one of our equity investments in an unconsolidated real estate joint venture consisting principally of SNFs, which is recorded in (loss) income from unconsolidated entities in our Consolidated Statements of Income. In July 2018, we sold our 25% interest to our joint venture partner and received \$57.5 million at closing and recognized a gain of \$0.9 million, which is recorded in (loss) income from unconsolidated entities in our Consolidated Statements of Income. In addition, our portion of debt related to investments in unconsolidated entities decreased by \$23.3 million. Given that we are no longer the managing member of the real estate joint venture, we will not receive monthly management fees, which have historically been approximately \$4.6 million annually.

**NOTE 7—INTANGIBLES**

The following is a summary of our intangibles as of September 30, 2018 and December 31, 2017:

	September 30, 2018			December 31, 2017		
	Balance	Remaining Weighted Average Amortization Period in Years	(Dollars in thousands)		Remaining Weighted Average Amortization Period in Years	
			Balance	Period in Years		
<b>Intangible assets:</b>						
Above market lease intangibles	\$ 183,212	6.8	\$ 185,012	7.0		
In-place and other lease intangibles	1,323,057	24.6	1,363,062	24.0		
Goodwill	1,045,877	N/A	1,034,644	N/A		
Other intangibles	35,847	12.1	35,890	14.1		
Accumulated amortization	(904,011)	N/A	(864,576)	N/A		
<b>Net intangible assets</b>	<b>\$ 1,683,982</b>	<b>22.6</b>	<b>\$ 1,754,032</b>	<b>22.1</b>		
<b>Intangible liabilities:</b>						
Below market lease intangibles	\$ 357,191	14.5	\$ 359,118	13.7		
Other lease intangibles	32,324	43.3	40,141	40.8		
Accumulated amortization	(188,537)	N/A	(160,985)	N/A		
Purchase option intangibles	3,568	N/A	3,568	N/A		
<b>Net intangible liabilities</b>	<b>\$ 204,546</b>	<b>16.6</b>	<b>\$ 241,842</b>	<b>15.6</b>		

N/A—Not Applicable.

Above market lease intangibles and in-place and other lease intangibles are included in acquired lease intangibles within real estate investments on our Consolidated Balance Sheets. Other intangibles (including non-compete agreements, trade names and trademarks) are included in other assets on our Consolidated Balance Sheets. Below market lease intangibles, other lease intangibles and purchase option intangibles are included in accounts payable and other liabilities on our Consolidated Balance Sheets.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**NOTE 8—OTHER ASSETS**

The following is a summary of our other assets as of September 30, 2018 and December 31, 2017:

	<b>September 30, 2018</b>	<b>December 31, 2017</b>
	<b>(In thousands)</b>	
Straight-line rent receivables, net	\$ 244,360	\$ 267,764
Non-mortgage loans receivable, net	50,478	59,857
Senior unsecured notes	208,090	—
Other intangibles, net	5,804	6,496
Investment in unconsolidated operating entities	62,295	49,738
Other	211,359	189,924
<b>Total other assets</b>	<b>\$ 782,386</b>	<b>\$ 573,779</b>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**NOTE 9—SENIOR NOTES PAYABLE AND OTHER DEBT**

The following is a summary of our senior notes payable and other debt as of September 30, 2018 and December 31, 2017:

	September 30, 2018	December 31, 2017
	(In thousands)	
Unsecured revolving credit facility <sup>(1)</sup>	\$ 514,353	\$ 535,832
Secured revolving construction credit facility due 2022	63,806	2,868
2.00% Senior Notes due 2018	—	700,000
4.00% Senior Notes due 2019	—	600,000
3.00% Senior Notes, Series A due 2019 <sup>(2)</sup>	309,981	318,041
2.70% Senior Notes due 2020	500,000	500,000
Unsecured term loan due 2020	—	900,000
4.75% Senior Notes due 2021	—	700,000
4.25% Senior Notes due 2022	600,000	600,000
3.25% Senior Notes due 2022	500,000	500,000
3.30% Senior Notes, Series C due 2022 <sup>(2)</sup>	193,738	198,776
Unsecured term loan due 2023	300,000	—
3.125% Senior Notes due 2023	400,000	400,000
3.10% Senior Notes due 2023	400,000	400,000
2.55% Senior Notes, Series D due 2023 <sup>(2)</sup>	213,112	218,653
Unsecured term loan due 2024	600,000	—
3.75% Senior Notes due 2024	400,000	400,000
4.125% Senior Notes, Series B due 2024 <sup>(2)</sup>	193,738	198,776
3.50% Senior Notes due 2025	600,000	600,000
4.125% Senior Notes due 2026	500,000	500,000
3.25% Senior Notes due 2026	450,000	450,000
3.85% Senior Notes due 2027	400,000	400,000
4.00% Senior Notes due 2028	650,000	—
4.40% Senior Notes due 2029	750,000	—
6.90% Senior Notes due 2037	52,400	52,400
6.59% Senior Notes due 2038	22,823	22,973
5.45% Senior Notes due 2043	258,750	258,750
5.70% Senior Notes due 2043	300,000	300,000
4.375% Senior Notes due 2045	300,000	300,000
Mortgage loans and other	1,111,299	1,308,564
Total	10,584,000	11,365,633
Deferred financing costs, net	(77,091)	(73,093)
Unamortized fair value adjustment	(2,207)	12,139
Unamortized discounts	(26,247)	(28,617)
Senior notes payable and other debt	\$ 10,478,455	\$ 11,276,062

<sup>(1)</sup> As of September 30, 2018 and December 31, 2017, respectively, \$21.3 million and \$28.7 million of aggregate borrowings were denominated in Canadian dollars. Aggregate borrowings of \$28.5 million and \$31.1 million were denominated in British pounds as of September 30, 2018 and December 31, 2017, respectively.

<sup>(2)</sup> These borrowings are in the form of Canadian dollars.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

As of September 30, 2018, our indebtedness had the following maturities:

	Principal Amount Due at Maturity	Unsecured Revolving Credit Facility <sup>(1)</sup>	Scheduled Periodic Amortization	Total Maturities
	(In thousands)			
2018	\$ —	\$ —	\$ 5,154	\$ 5,154
2019	538,766	—	15,114	553,880
2020	583,866	—	14,491	598,357
2021	62,406	514,353	13,365	590,124
2022	1,475,293	—	11,841	1,487,134
Thereafter <sup>(2)</sup>	7,262,876	—	86,475	7,349,351
Total maturities	<u>\$ 9,923,207</u>	<u>\$ 514,353</u>	<u>\$ 146,440</u>	<u>\$ 10,584,000</u>

<sup>(1)</sup> At September 30, 2018, we had \$86.1 million of unrestricted cash and cash equivalents, for \$428.2 million of net borrowings outstanding under our unsecured revolving credit facility.

<sup>(2)</sup> Includes \$52.4 million aggregate principal amount of our 6.90% senior notes due 2037 that is subject to repurchase, at the option of the holders, on October 1, 2027, and \$22.8 million aggregate principal amount of 6.59% senior notes due 2038 that is subject to repurchase, at the option of the holders, on July 7 in each of 2023 and 2028.

#### **Credit Facilities and Unsecured Term Loans**

Our unsecured credit facility is comprised of a \$3.0 billion unsecured revolving credit facility, priced at LIBOR plus 0.875% as of September 30, 2018. The unsecured revolving credit facility matures in 2021, but may be extended at our option subject to the satisfaction of certain conditions for two additional periods of six months each. The unsecured revolving credit facility also includes an accordion feature that permits us to increase our aggregate borrowing capacity thereunder to up to \$3.75 billion.

As of September 30, 2018, we had \$514.4 million of borrowings outstanding, \$22.7 million of letters of credit outstanding and \$2.5 billion of unused borrowing capacity available under our unsecured revolving credit facility.

In July 2018, we entered into a new \$900.0 million unsecured term loan facility priced at LIBOR plus 0.90%. The new term loan facility is comprised of a \$300.0 million term loan that matures in 2023 and a \$600.0 million term loan that matures in 2024. The new term loan facility also includes an accordion feature that permits us to increase our aggregate borrowings thereunder to up to \$1.5 billion. This unsecured term loan facility replaced and repaid in full our \$900.0 million unsecured term loan due 2020 priced at LIBOR plus 0.975%.

As of September 30, 2018, we also had a \$400.0 million secured revolving construction credit facility with \$63.8 million of borrowings outstanding and \$336.2 million of unused borrowing capacity. The secured revolving construction credit facility matures in 2022 and is primarily used to finance life science and innovation center and other construction projects.

#### **Senior Notes**

In February 2018, our wholly-owned subsidiary, Ventas Realty, Limited Partnership (“Ventas Realty”), issued and sold \$650.0 million aggregate principal amount of 4.00% senior notes due 2028 at a public offering price equal to 99.23% of par, for total proceeds of \$645.0 million before the underwriting discount and expenses.

In February 2018, we redeemed \$502.1 million aggregate principal amount then outstanding of our 4.00% senior notes due April 2019 at a public offering price of 101.83% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$11.0 million. The redemption was funded using cash on hand and borrowings under our unsecured revolving credit facility. In April 2018, we repaid the remaining balance then outstanding of our 4.00% senior notes due April 2019 of \$97.9 million and recognized a loss on extinguishment of debt of \$1.8 million.

In February 2018, we repaid in full, at par, \$700.0 million aggregate principal amount then outstanding of our 2.00% senior notes due February 2018 upon maturity.

In August 2018, Ventas Realty issued and sold \$750.0 million aggregate principal amount of 4.40% senior notes due 2029 at a public offering price equal to 99.95% of par, for total proceeds of \$749.7 million before the underwriting discount and expenses.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

In August 2018, we redeemed \$549.5 million aggregate principal amount then outstanding of our 4.75% senior notes due 2021 at a public offering price of 104.56% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$28.3 million. The redemption was funded using proceeds from our August 2018 senior note issuance, cash on hand and borrowings under our unsecured revolving credit facility. In September 2018, we repaid the remaining balance then outstanding of our 4.75% senior notes due 2021 of \$150.5 million and recognized a loss on extinguishment of debt of \$7.6 million.

***Mortgages***

During the nine months ended September 30, 2018 and 2017, we repaid in full mortgage loans outstanding in the aggregate principal amounts of \$324.6 million and \$307.5 million, respectively.

***Derivatives and Hedging***

During the nine months ended September 30, 2018, we entered into \$300 million notional value forward starting swaps that reduced our exposure to fluctuations in interest rates prior to our August 2018 issuance of 4.40% senior notes due 2029, which resulted in a \$4.4 million gain that is being recognized over the life of the notes using the effective interest method.

In August 2018, we entered into interest rate swaps totaling a notional amount of \$200 million with a maturity of January 31, 2023 that effectively converts LIBOR-based floating rate debt to fixed rate debt.

In March 2017, we entered into interest rate swaps totaling a notional amount of \$400 million with a maturity of January 15, 2023, effectively converting fixed rate debt to three month LIBOR-based floating rate debt. As a result, we will pay a floating rate equal to three month LIBOR plus a weighted average swap spread of 0.98%. In August 2018, \$200 million notional amount of these swaps were terminated, which resulted in a \$6.6 million loss that is being recognized over the life of the notes using the effective interest method.

During June and December 2017, we entered into a total of \$200 million notional value forward starting swaps that reduced our exposure to fluctuations in interest rates prior to the February 2018 issuance of 4.00% senior notes due 2028. On the issuance date, we realized a gain of \$10.0 million from these swaps that is being recognized over the life of the senior notes using an effective interest method.

**NOTE 10—FAIR VALUES OF FINANCIAL INSTRUMENTS**

As of September 30, 2018 and December 31, 2017, the carrying amounts and fair values of our financial instruments were as follows:

	September 30, 2018		December 31, 2017	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(In thousands)			
<b>Assets:</b>				
Cash and cash equivalents	\$ 86,107	\$ 86,107	\$ 81,355	\$ 81,355
Secured mortgage loans and other, net	466,614	452,646	1,291,694	1,286,322
Non-mortgage loans receivable, net	50,478	49,915	59,857	58,849
Senior unsecured notes	208,090	208,090	—	—
Government-sponsored pooled loan investments	61,237	61,237	54,665	54,665
Derivative instruments	10,072	10,072	7,248	7,248
<b>Liabilities:</b>				
Senior notes payable and other debt, gross	10,584,000	10,434,164	11,365,633	11,600,750
Derivative instruments	9,119	9,119	5,435	5,435
Redeemable OP Unitholder Interests	130,999	130,999	146,252	146,252

For a discussion of the assumptions considered, refer to “NOTE 2—ACCOUNTING POLICIES.” The use of different market assumptions and estimation methodologies may have a material effect on the reported estimated fair value

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

amounts. Accordingly, the estimates presented above are not necessarily indicative of the amounts we would realize in a current market exchange.

**NOTE 11—LITIGATION**

***Proceedings against Tenants, Operators and Managers***

From time to time, Atria, Sunrise, Brookdale Senior Living, Ardent, Kindred and our other tenants, operators and managers are parties to certain legal actions, regulatory investigations and claims arising in the conduct of their business and operations. Even though we generally are not party to these proceedings, the unfavorable resolution of any such actions, investigations or claims could, individually or in the aggregate, materially adversely affect such tenants', operators' or managers' liquidity, financial condition or results of operations and their ability to satisfy their respective obligations to us, which, in turn, could have a Material Adverse Effect on us.

***Proceedings Indemnified and Defended by Third Parties***

From time to time, we are party to certain legal actions, regulatory investigations and claims for which third parties are contractually obligated to indemnify, defend and hold us harmless. The tenants of our triple-net leased properties and, in some cases, their affiliates are required by the terms of their leases and other agreements with us to indemnify, defend and hold us harmless against certain actions, investigations and claims arising in the course of their business and related to the operations of our triple-net leased properties. In addition, third parties from whom we acquired certain of our assets and, in some cases, their affiliates are required by the terms of the related conveyance documents to indemnify, defend and hold us harmless against certain actions, investigations and claims related to the acquired assets and arising prior to our ownership or related to excluded assets and liabilities. In some cases, a portion of the purchase price consideration is held in escrow for a specified period of time as collateral for these indemnification obligations. We are presently being defended by certain tenants and other obligated third parties in these types of matters. We cannot assure you that our tenants, their affiliates or other obligated third parties will continue to defend us in these matters, that our tenants, their affiliates or other obligated third parties will have sufficient assets, income and access to financing to enable them to satisfy their defense and indemnification obligations to us or that any purchase price consideration held in escrow will be sufficient to satisfy claims for which we are entitled to indemnification. The unfavorable resolution of any such actions, investigations or claims could, individually or in the aggregate, materially adversely affect our tenants' or other obligated third parties' liquidity, financial condition or results of operations and their ability to satisfy their respective obligations to us, which, in turn, could have a Material Adverse Effect on us.

***Proceedings Arising in Connection with Senior Living and Office Operations; Other Litigation***

From time to time, we are party to various legal actions, regulatory investigations and claims (some of which may not be insured and some of which may allege large damage amounts) arising in connection with our senior living and office operations or otherwise in the course of our business. In limited circumstances, the manager of the applicable seniors housing community, MOB or life science and innovation center may be contractually obligated to indemnify, defend and hold us harmless against such actions, investigations and claims. It is the opinion of management, except as otherwise set forth in this note, that the disposition of any such actions, investigations and claims that are currently pending will not, individually or in the aggregate, have a Material Adverse Effect on us. However, regardless of their merits, we may be forced to expend significant financial resources to defend and resolve these matters. We are unable to predict the ultimate outcome of these actions, investigations and claims, and if management's assessment of our liability with respect thereto is incorrect, such actions, investigations and claims could have a Material Adverse Effect on us.

**NOTE 12—INCOME TAXES**

We have elected to be taxed as a REIT under the applicable provisions of the Internal Revenue Code of 1986, as amended, for every year beginning with the year ended December 31, 1999. We have also elected for certain of our subsidiaries to be treated as taxable REIT subsidiaries ("TRS" or "TRS entities"), which are subject to federal, state and foreign income taxes. All entities other than the TRS entities are collectively referred to as the "REIT" within this note. Certain REIT entities are subject to foreign income tax.

Although the TRS entities and certain other foreign entities have paid minimal cash federal, state and foreign income taxes for the nine months ended September 30, 2018, their income tax liabilities may increase in future periods as we exhaust net operating loss ("NOL") carryforwards and as our senior living and other operations grow. Such increases could be significant.

Our consolidated provisions for income taxes for the three months ended September 30, 2018 and 2017 were benefits of \$7.3 million and \$7.8 million, respectively. Our consolidated provisions for income taxes for the nine months ended September 30, 2018 and 2017 were benefits of \$11.3 million and \$13.1 million, respectively.

Realization of a deferred tax benefit related to NOLs depends, in part, upon generating sufficient taxable income in future periods. The REIT and TRS NOL carryforwards begin to expire in 2024.

Each TRS is a tax paying component for purposes of classifying deferred tax assets and liabilities. Net deferred tax liabilities with respect to our TRS entities totaled \$236.6 million and \$250.1 million as of September 30, 2018 and December 31, 2017, respectively, and related primarily to differences between the financial reporting and tax bases of fixed and intangible assets, net of loss carryforwards.

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (“2017 Tax Act”) was signed into law making significant changes to the Internal Revenue Code. As of December 31, 2017, we made a reasonable estimate that the new interest expense limitation rules may disallow the deferred interest carried forward under the rules prior to the 2017 Tax Act. Consequently, we recorded a provisional adjustment of \$23.3 million for the entire deferred tax asset related to the existing deferred interest carryforward. This amount continues to be a provisional adjustment as of September 30, 2018. We will recognize any changes to provisional amounts as we continue to analyze the existing statute or as additional guidance becomes available. We expect to complete our analysis of the provisional amounts by the end of 2018.

Generally, we are subject to audit under the statute of limitations by the Internal Revenue Service for the year ended December 31, 2015 and subsequent years and are subject to audit by state taxing authorities for the year ended December 31, 2014 and subsequent years. We are subject to audit generally under the statutes of limitation by the Canada Revenue Agency and provincial authorities with respect to the Canadian entities for the year ended December 31, 2014 and subsequent years. We are subject to audit in the United Kingdom generally for periods ended in and subsequent to 2016.

#### **NOTE 13—STOCKHOLDERS' EQUITY**

##### ***Capital Stock***

We may sell our common stock from time to time under an “at-the-market” equity offering program (“ATM program”). In August 2018, we replaced our expired ATM program with an identical program, under which we may sell up to an aggregate of \$1.0 billion of our common stock. For the nine months ended September 30, 2018, we sold no shares of our common stock under an ATM program. Therefore, as of September 30, 2018, \$1.0 billion of our common stock remained available for sale under our ATM program.

##### ***Accumulated Other Comprehensive Loss***

The following is a summary of our accumulated other comprehensive loss as of September 30, 2018 and December 31, 2017:

	<b>September 30, 2018</b>	<b>December 31, 2017</b>
	(In thousands)	
Foreign currency translation	\$ (53,641)	\$ (45,580)
Accumulated unrealized gain on marketable debt securities	18,618	802
Other	27,076	9,658
Total accumulated other comprehensive loss	<u>\$ (7,947)</u>	<u>\$ (35,120)</u>

#### NOTE 14—EARNINGS PER SHARE

The following table shows the amounts used in computing our basic and diluted earnings per share:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands, except per share amounts)			
<b>Numerator for basic and diluted earnings per share:</b>				
Income from continuing operations	\$ 103,263	\$ 156,930	\$ 316,796	\$ 465,114
Discontinued operations	—	(19)	(10)	(95)
Gain on real estate dispositions	18	458,280	35,893	502,288
Net income	103,281	615,191	352,679	967,307
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Net income attributable to common stockholders	<u>\$ 101,972</u>	<u>\$ 613,958</u>	<u>\$ 347,194</u>	<u>\$ 963,916</u>
<b>Denominator:</b>				
Denominator for basic earnings per share—weighted average shares	356,318	355,929	356,224	355,110
<b>Effect of dilutive securities:</b>				
Stock options	227	624	152	528
Restricted stock awards	396	318	271	236
OP Unitholder Interests	<u>2,414</u>	<u>2,462</u>	<u>2,421</u>	<u>2,491</u>
Denominator for diluted earnings per share—adjusted weighted average shares	<u>359,355</u>	<u>359,333</u>	<u>359,068</u>	<u>358,365</u>
<b>Basic earnings per share:</b>				
Income from continuing operations	\$ 0.29	\$ 0.44	\$ 0.89	\$ 1.31
Net income attributable to common stockholders	0.29	1.72	0.97	2.71
<b>Diluted earnings per share:</b>				
Income from continuing operations	\$ 0.29	\$ 0.44	\$ 0.88	\$ 1.30
Net income attributable to common stockholders	0.28	1.71	0.97	2.69

#### NOTE 15—SEGMENT INFORMATION

As of September 30, 2018, we operated through three reportable business segments: triple-net leased properties, senior living operations and office operations. In our triple-net leased properties segment, we invest in and own seniors housing and healthcare properties throughout the United States and the United Kingdom and lease those properties to healthcare operating companies under “triple-net” or “absolute-net” leases that obligate the tenants to pay all property-related expenses. In our senior living operations segment, we invest in seniors housing communities throughout the United States and Canada and engage independent operators, such as Atria and Sunrise, to manage those communities. In our office operations segment, we primarily acquire, own, develop, lease and manage MOBs and life science and innovation centers throughout the United States. Information provided for “all other” includes income from loans and investments and other miscellaneous income and various corporate-level expenses not directly attributable to any of our three reportable business segments. Assets included in “all other” consist primarily of corporate assets, including cash, restricted cash, loans receivable and investments, and miscellaneous accounts receivable.

Our chief operating decision makers evaluate performance of the combined properties in each reportable business segment and determine how to allocate resources to those segments, in significant part, based on segment NOI and related measures. We define segment NOI as total revenues, less interest and other income, property-level operating expenses and office building services costs. We consider segment NOI useful because it allows investors, analysts and our management to measure unlevered property-level operating results and to compare our operating results to the operating results of other real estate companies between periods on a consistent basis. In order to facilitate a clear understanding of our historical consolidated operating results, segment NOI should be examined in conjunction with income from continuing operations as presented in our Consolidated Financial Statements and other financial data included elsewhere in this Quarterly Report on Form 10-Q.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

Interest expense, depreciation and amortization, general, administrative and professional fees, income tax expense and other non-property specific revenues and expenses are not allocated to individual reportable business segments for purposes of assessing segment performance. There are no intersegment sales or transfers.

Summary information by reportable business segment is as follows:

	For the Three Months Ended September 30, 2018					(In thousands)
	Triple-Net Leased Properties	Senior Living Operations	Office Operations	All Other	Total	
<b>Revenues:</b>						
Rental income	\$ 190,117	\$ —	\$ 193,911	\$ —	\$ 384,028	
Resident fees and services	—	518,560	—	—	518,560	
Office building and other services revenue	202	—	2,175	911	3,288	
Income from loans and investments	—	—	—	18,108	18,108	
Interest and other income	—	—	—	12,554	12,554	
<b>Total revenues</b>	<b>\$ 190,319</b>	<b>\$ 518,560</b>	<b>\$ 196,086</b>	<b>\$ 31,573</b>	<b>\$ 936,538</b>	
<b>Total revenues</b>	<b>\$ 190,319</b>	<b>\$ 518,560</b>	<b>\$ 196,086</b>	<b>\$ 31,573</b>	<b>\$ 936,538</b>	
<b>Less:</b>						
Interest and other income	—	—	—	12,554	12,554	
Property-level operating expenses	—	366,721	61,668	—	428,389	
Office building services costs	—	—	431	—	431	
Segment NOI	190,319	151,839	133,987	19,019	495,164	
Income (loss) from unconsolidated entities	1,320	(1,314)	56	(778)	(716)	
Segment profit	<b>\$ 191,639</b>	<b>\$ 150,525</b>	<b>\$ 134,043</b>	<b>\$ 18,241</b>	<b>494,448</b>	
Interest and other income					12,554	
Interest expense					(107,581)	
Depreciation and amortization					(218,579)	
General, administrative and professional fees					(39,677)	
Loss on extinguishment of debt, net					(39,527)	
Merger-related expenses and deal costs					(4,458)	
Other					(1,244)	
Income tax benefit					7,327	
<b>Income from continuing operations</b>					<b>\$ 103,263</b>	

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

	For the Three Months Ended September 30, 2017					(In thousands)		
	Triple-Net Leased Properties	Senior Living Operations	Office Operations	All Other	Total			
<b>Revenues:</b>								
Rental income	\$ 212,370	\$ —	\$ 189,506	\$ —	\$ 401,876			
Resident fees and services	—	461,700	—	—	461,700			
Office building and other services revenue	1,125	—	1,568	503	3,196			
Income from loans and investments	—	—	—	32,985	32,985			
Interest and other income	—	—	—	171	171			
<b>Total revenues</b>	<b>\$ 213,495</b>	<b>\$ 461,700</b>	<b>\$ 191,074</b>	<b>\$ 33,659</b>	<b>\$ 899,928</b>			
 <b>Total revenues</b>	 <b>\$ 213,495</b>	 <b>\$ 461,700</b>	 <b>\$ 191,074</b>	 <b>\$ 33,659</b>	 <b>\$ 899,928</b>			
Less:								
Interest and other income	—	—	—	171	171			
Property-level operating expenses	—	315,598	60,609	—	376,207			
Office building services costs	—	—	418	—	418			
Segment NOI	213,495	146,102	130,047	33,488	523,132			
Income (loss) from unconsolidated entities	1,122	300	(348)	(324)	750			
Segment profit	<b>\$ 214,617</b>	<b>\$ 146,402</b>	<b>\$ 129,699</b>	<b>\$ 33,164</b>	<b>523,882</b>			
Interest and other income					171			
Interest expense					(113,869)			
Depreciation and amortization					(213,407)			
General, administrative and professional fees					(33,317)			
Loss on extinguishment of debt, net					(511)			
Merger-related expenses and deal costs					(804)			
Other					(13,030)			
Income tax benefit					7,815			
<b>Income from continuing operations</b>					<b>\$ 156,930</b>			

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

	For the Nine Months Ended September 30, 2018					(In thousands)		
	Triple-Net Leased Properties	Senior Living Operations	Office Operations	All Other	Total			
<b>Revenues:</b>								
Rental income	\$ 548,628	\$ —	\$ 580,471	\$ —	\$ 1,129,099			
Resident fees and services	—	1,552,302	—	—	1,552,302			
Office building and other services revenue	2,522	—	5,785	2,598	10,905			
Income from loans and investments	—	—	—	105,706	105,706			
Interest and other income	—	—	—	24,535	24,535			
<b>Total revenues</b>	<b>\$ 551,150</b>	<b>\$ 1,552,302</b>	<b>\$ 586,256</b>	<b>\$ 132,839</b>	<b>\$ 2,822,547</b>			
<b>Total revenues</b>	<b>\$ 551,150</b>	<b>\$ 1,552,302</b>	<b>\$ 586,256</b>	<b>\$ 132,839</b>	<b>\$ 2,822,547</b>			
Less:								
Interest and other income	—	—	—	24,535	24,535			
Property-level operating expenses	—	1,080,053	182,662	—	1,262,715			
Office building services costs	—	—	1,080	—	1,080			
Segment NOI	551,150	472,249	402,514	108,304	1,534,217			
(Loss) income from unconsolidated entities	(42,029)	(3,668)	321	(2,450)	(47,826)			
Segment profit	<b>\$ 509,121</b>	<b>\$ 468,581</b>	<b>\$ 402,835</b>	<b>\$ 105,854</b>	<b>1,486,391</b>			
Interest and other income					24,535			
Interest expense					(331,973)			
Depreciation and amortization					(675,363)			
General, administrative and professional fees					(113,507)			
Loss on extinguishment of debt, net					(50,411)			
Merger-related expenses and deal costs					(26,288)			
Other					(7,891)			
Income tax benefit					11,303			
<b>Income from continuing operations</b>					<b>\$ 316,796</b>			

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

	For the Nine Months Ended September 30, 2017						(In thousands)			
	Triple-Net Leased Properties	Senior Living Operations	Office Operations	All Other	Total					
<b>Revenues:</b>										
Rental income	\$ 634,955	\$ —	\$ 561,641	\$ —	\$ 1,196,596					
Resident fees and services	—	1,386,131	—	—	—	1,386,131				
Office building and other services revenue	3,455	—	5,347	979	—	9,781				
Income from loans and investments	—	—	—	85,499	—	85,499				
Interest and other income	—	—	—	854	—	854				
<b>Total revenues</b>	<b>\$ 638,410</b>	<b>\$ 1,386,131</b>	<b>\$ 566,988</b>	<b>\$ 87,332</b>	<b>\$ 2,678,861</b>					
<b>Total revenues</b>	<b>\$ 638,410</b>	<b>\$ 1,386,131</b>	<b>\$ 566,988</b>	<b>\$ 87,332</b>	<b>\$ 2,678,861</b>					
<b>Less:</b>										
Interest and other income	—	—	—	854	—	854				
Property-level operating expenses	—	936,296	174,728	—	—	1,111,024				
Office building services costs	—	—	1,708	—	—	1,708				
Segment NOI	638,410	449,835	390,552	86,478	—	1,565,275				
Income (loss) from unconsolidated entities	4,768	(157)	284	(1,101)	—	3,794				
<b>Segment profit</b>	<b>\$ 643,178</b>	<b>\$ 449,678</b>	<b>\$ 390,836</b>	<b>\$ 85,377</b>	<b>\$ 1,569,069</b>					
Interest and other income						854				
Interest expense						(336,245)				
Depreciation and amortization						(655,298)				
General, administrative and professional fees						(100,560)				
Loss on extinguishment of debt, net						(856)				
Merger-related expenses and deal costs						(8,903)				
Other						(16,066)				
Income tax benefit						13,119				
<b>Income from continuing operations</b>						<b>\$ 465,114</b>				

Capital expenditures, including investments in real estate property and development project expenditures, by reportable business segment are as follows:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,		(In thousands)
	2018	2017	2018	2017	
<b>Capital expenditures:</b>					
Triple-net leased properties	\$ 10,773	\$ 9,954	\$ 31,781	\$ 151,906	
Senior living operations	36,138	45,152	90,892	96,533	
Office operations	82,294	62,108	216,500	307,494	
<b>Total capital expenditures</b>	<b>\$ 129,205</b>	<b>\$ 117,214</b>	<b>\$ 339,173</b>	<b>\$ 555,933</b>	

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

Our portfolio of properties and mortgage loan and other investments are located in the United States, Canada and the United Kingdom. Revenues are attributed to an individual country based on the location of each property. Geographic information regarding our operations is as follows:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands)			
<b>Revenues:</b>				
United States	\$ 881,477	\$ 844,370	\$ 2,656,487	\$ 2,521,813
Canada	48,080	48,639	144,366	137,647
United Kingdom	6,981	6,919	21,694	19,401
<b>Total revenues</b>	<b>\$ 936,538</b>	<b>\$ 899,928</b>	<b>\$ 2,822,547</b>	<b>\$ 2,678,861</b>
<b>As of September 30, 2018</b>				
(In thousands)				
<b>Net real estate property:</b>				
United States	\$ 18,721,154	\$ 19,253,724		
Canada	1,021,728	1,070,903		
United Kingdom	277,752	297,827		
<b>Total net real estate property</b>	<b>\$ 20,020,634</b>	<b>\$ 20,622,454</b>		

**NOTE 16—CONDENSED CONSOLIDATING INFORMATION**

Ventas, Inc. has fully and unconditionally guaranteed the obligation to pay principal and interest with respect to the outstanding senior notes issued by our 100% owned subsidiary, Ventas Realty, including the senior notes that were jointly issued with Ventas Capital Corporation. Ventas Capital Corporation is a direct 100% owned subsidiary of Ventas Realty that has no assets or operations, but was formed in 2002 solely to facilitate offerings of senior notes by a limited partnership. None of our other subsidiaries (such subsidiaries, excluding Ventas Realty and Ventas Capital Corporation, the “Ventas Subsidiaries”) is obligated with respect to Ventas Realty’s outstanding senior notes. Certain of Ventas Realty’s outstanding senior notes reflected in our condensed consolidating information were issued jointly with Ventas Capital Corporation.

Ventas, Inc. has also fully and unconditionally guaranteed the obligation to pay principal and interest with respect to the outstanding senior notes issued by our 100% owned subsidiary, Ventas Canada Finance Limited. None of our other subsidiaries is obligated with respect to Ventas Canada Finance Limited’s outstanding senior notes, all of which were issued on a private placement basis in Canada.

In connection with the acquisition of Nationwide Health Properties, Inc. (“NHP”), our 100% owned subsidiary, Nationwide Health Properties, LLC (“NHP LLC”), as successor to NHP, assumed the obligation to pay principal and interest with respect to the outstanding senior notes issued by NHP. Neither we nor any of our subsidiaries (other than NHP LLC) is obligated with respect to any of NHP LLC’s outstanding senior notes.

Under certain circumstances, contractual and legal restrictions, including those contained in the instruments governing our subsidiaries’ outstanding mortgage indebtedness, may restrict our ability to obtain cash from our subsidiaries for the purpose of meeting our debt service obligations, including our payment guarantees with respect to Ventas Realty’s and Ventas Canada Finance Limited’s senior notes.

The following pages summarize our condensed consolidating information as of September 30, 2018 and December 31, 2017 and for the three and nine months ended September 30, 2018 and 2017.

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING BALANCE SHEET**

**As of September 30, 2018**

	Ventas, Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
	(In thousands)				
<b>Assets</b>					
Net real estate investments	\$ 3,634	\$ 112,869	\$ 20,480,460	\$ —	\$ 20,596,963
Cash and cash equivalents	8,291	—	77,816	—	86,107
Escrow deposits and restricted cash	5,198	128	57,114	—	62,440
Investment in and advances to affiliates	15,421,147	2,726,198	—	(18,147,345)	—
Goodwill	—	—	1,045,877	—	1,045,877
Assets held for sale	—	—	24,180	—	24,180
Other assets	57,960	6,669	717,757	—	782,386
Total assets	<u>\$ 15,496,230</u>	<u>\$ 2,845,864</u>	<u>\$ 22,403,204</u>	<u>\$ (18,147,345)</u>	<u>\$ 22,597,953</u>
<b>Liabilities and equity</b>					
Liabilities:					
Senior notes payable and other debt	\$ —	\$ 8,330,288	\$ 2,148,167	\$ —	\$ 10,478,455
Intercompany loans	8,066,423	(5,390,219)	(2,676,204)	—	—
Accrued interest	(8,976)	66,613	19,246	—	76,883
Accounts payable and other liabilities	355,472	24,843	754,583	—	1,134,898
Liabilities related to assets held for sale	—	—	14,790	—	14,790
Deferred income taxes	586	—	236,030	—	236,616
Total liabilities	<u>8,413,505</u>	<u>3,031,525</u>	<u>496,612</u>	—	<u>11,941,642</u>
Redeemable OP Unitholder and noncontrolling interests	12,399	—	130,843	—	143,242
Total equity	<u>7,070,326</u>	<u>(185,661)</u>	<u>21,775,749</u>	<u>(18,147,345)</u>	<u>10,513,069</u>
Total liabilities and equity	<u>\$ 15,496,230</u>	<u>\$ 2,845,864</u>	<u>\$ 22,403,204</u>	<u>\$ (18,147,345)</u>	<u>\$ 22,597,953</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING BALANCE SHEET**

**As of December 31, 2017**

	Ventas, Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
	(In thousands)				
<b>Assets</b>					
Net real estate investments	\$ 1,844	\$ 119,508	\$ 21,971,100	\$ —	\$ 22,092,452
Cash and cash equivalents	7,129	—	74,226	—	81,355
Escrow deposits and restricted cash	39,816	128	66,954	—	106,898
Investment in and advances to affiliates	14,790,537	2,916,060	—	(17,706,597)	—
Goodwill	—	—	1,034,644	—	1,034,644
Assets held for sale	—	—	65,413	—	65,413
Other assets	55,934	9,458	508,387	—	573,779
Total assets	<u>\$ 14,895,260</u>	<u>\$ 3,045,154</u>	<u>\$ 23,720,724</u>	<u>\$ (17,706,597)</u>	<u>\$ 23,954,541</u>
<b>Liabilities and equity</b>					
Liabilities:					
Senior notes payable and other debt	\$ —	\$ 8,895,641	\$ 2,380,421	\$ —	\$ 11,276,062
Intercompany loans	7,838,898	(7,127,547)	(711,351)	—	—
Accrued interest	(6,410)	77,691	22,677	—	93,958
Accounts payable and other liabilities	377,536	24,635	781,318	—	1,183,489
Liabilities related to assets held for sale	—	—	60,265	—	60,265
Deferred income taxes	608	—	249,484	—	250,092
Total liabilities	<u>8,210,632</u>	<u>1,870,420</u>	<u>2,782,814</u>	—	<u>12,863,866</u>
Redeemable OP Unitholder and noncontrolling interests	12,237	—	146,253	—	158,490
Total equity	<u>6,672,391</u>	<u>1,174,734</u>	<u>20,791,657</u>	<u>(17,706,597)</u>	<u>10,932,185</u>
Total liabilities and equity	<u>\$ 14,895,260</u>	<u>\$ 3,045,154</u>	<u>\$ 23,720,724</u>	<u>\$ (17,706,597)</u>	<u>\$ 23,954,541</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF INCOME**

	For the Three Months Ended September 30, 2018				
	Ventas, Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
(In thousands)					
<b>Revenues</b>					
Rental income	\$ 275	\$ 35,189	\$ 348,564	\$ —	\$ 384,028
Resident fees and services	—	—	518,560	—	518,560
Office building and other services revenue	—	—	3,288	—	3,288
Income from loans and investments	387	—	17,721	—	18,108
Equity earnings in affiliates	74,048	—	(874)	(73,174)	—
Interest and other income	12,335	8	211	—	12,554
Total revenues	<u>87,045</u>	<u>35,197</u>	<u>887,470</u>	<u>(73,174)</u>	<u>936,538</u>
<b>Expenses</b>					
Interest	(19,307)	80,255	46,633	—	107,581
Depreciation and amortization	1,365	1,411	215,803	—	218,579
Property-level operating expenses	—	77	428,312	—	428,389
Office building services costs	—	—	431	—	431
General, administrative and professional fees	2,744	4,477	32,456	—	39,677
Loss on extinguishment of debt, net	202	36,219	3,106	—	39,527
Merger-related expenses and deal costs	2,980	—	1,478	—	4,458
Other	28	25	1,191	—	1,244
Total expenses	<u>(11,988)</u>	<u>122,464</u>	<u>729,410</u>	<u>—</u>	<u>839,886</u>
Income (loss) before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	99,033	(87,267)	158,060	(73,174)	96,652
Loss from unconsolidated entities	—	—	(716)	—	(716)
Income tax benefit	2,944	—	4,383	—	7,327
Income (loss) from continuing operations	101,977	(87,267)	161,727	(73,174)	103,263
(Loss) gain on real estate dispositions	(5)	—	23	—	18
Net income (loss)	101,972	(87,267)	161,750	(73,174)	103,281
Net income attributable to noncontrolling interests	—	—	1,309	—	1,309
Net income (loss) attributable to common stockholders	<u>\$ 101,972</u>	<u>\$ (87,267)</u>	<u>\$ 160,441</u>	<u>\$ (73,174)</u>	<u>\$ 101,972</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF INCOME**

	For the Three Months Ended September 30, 2017				
	Ventas, Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
	(In thousands)				
<b>Revenues</b>					
Rental income	\$ 601	\$ 45,447	\$ 355,828	\$ —	\$ 401,876
Resident fees and services	—	—	461,700	—	461,700
Office building and other services revenue	—	—	3,196	—	3,196
Income from loans and investments	309	—	32,676	—	32,985
Equity earnings in affiliates	594,857	—	4,151	(599,008)	—
Interest and other income	3	—	168	—	171
Total revenues	<u>595,770</u>	<u>45,447</u>	<u>857,719</u>	<u>(599,008)</u>	<u>899,928</u>
<b>Expenses</b>					
Interest	(16,836)	82,007	48,698	—	113,869
Depreciation and amortization	1,314	1,455	210,638	—	213,407
Property-level operating expenses	—	69	376,138	—	376,207
Office building services costs	—	—	418	—	418
General, administrative and professional fees	100	4,240	28,977	—	33,317
Loss on extinguishment of debt, net	—	504	7	—	511
Merger-related expenses and deal costs	360	—	444	—	804
Other	1,626	—	11,404	—	13,030
Total expenses	<u>(13,436)</u>	<u>88,275</u>	<u>676,724</u>	<u>—</u>	<u>751,563</u>
Income (loss) before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	609,206	(42,828)	180,995	(599,008)	148,365
Income from unconsolidated entities	—	—	750	—	750
Income tax benefit	4,771	—	3,044	—	7,815
Income (loss) from continuing operations	613,977	(42,828)	184,789	(599,008)	156,930
Discontinued operations	(19)	—	—	—	(19)
Gain on real estate dispositions	—	457,952	328	—	458,280
Net income	613,958	415,124	185,117	(599,008)	615,191
Net income attributable to noncontrolling interests	—	—	1,233	—	1,233
Net income attributable to common stockholders	<u>\$ 613,958</u>	<u>\$ 415,124</u>	<u>\$ 183,884</u>	<u>\$ (599,008)</u>	<u>\$ 613,958</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF INCOME**

	For the Nine Months Ended September 30, 2018				
	Ventas, Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
	(In thousands)				
<b>Revenues</b>					
Rental income	\$ 1,132	\$ 103,874	\$ 1,024,093	\$ —	\$ 1,129,099
Resident fees and services	—	—	1,552,302	—	1,552,302
Office building and other services revenue	—	—	10,905	—	10,905
Income from loans and investments	1,150	—	104,556	—	105,706
Equity earnings in affiliates	278,103	—	(2,078)	(276,025)	—
Interest and other income	23,726	8	801	—	24,535
Total revenues	304,111	103,882	2,690,579	(276,025)	2,822,547
<b>Expenses</b>					
Interest	(76,297)	245,210	163,060	—	331,973
Depreciation and amortization	4,081	4,277	667,005	—	675,363
Property-level operating expenses	—	231	1,262,484	—	1,262,715
Office building services costs	—	—	1,080	—	1,080
General, administrative and professional fees	2,892	13,142	97,473	—	113,507
Loss on extinguishment of debt, net	356	48,815	1,240	—	50,411
Merger-related expenses and deal costs	23,390	—	2,898	—	26,288
Other	4,524	25	3,342	—	7,891
Total expenses	(41,054)	311,700	2,198,582	—	2,469,228
Income (loss) before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	345,165	(207,818)	491,997	(276,025)	353,319
Loss from unconsolidated entities	—	—	(47,826)	—	(47,826)
Income tax benefit	2,606	—	8,697	—	11,303
Income (loss) from continuing operations	347,771	(207,818)	452,868	(276,025)	316,796
Discontinued operations	(10)	—	—	—	(10)
(Loss) gain on real estate dispositions	(567)	—	36,460	—	35,893
Net income (loss)	347,194	(207,818)	489,328	(276,025)	352,679
Net income attributable to noncontrolling interests	—	—	5,485	—	5,485
Net income (loss) attributable to common stockholders	\$ 347,194	\$ (207,818)	\$ 483,843	\$ (276,025)	\$ 347,194

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF INCOME**

	<b>For the Nine Months Ended September 30, 2017</b>				
	Ventas Inc.	Ventas Realty	Ventas Subsidiaries	Consolidated Elimination	Consolidated
	(In thousands)				
<b>Revenues</b>					
Rental income	\$ 1,782	\$ 141,717	\$ 1,053,097	\$ —	\$ 1,196,596
Resident fees and services	—	—	1,386,131	—	1,386,131
Office building and other services revenue	—	—	9,781	—	9,781
Income from loans and investments	908	—	84,591	—	85,499
Equity earnings in affiliates	909,605	—	3,553	(913,158)	—
Interest and other income	374	—	480	—	854
Total revenues	<u>912,669</u>	<u>141,717</u>	<u>2,537,633</u>	<u>(913,158)</u>	<u>2,678,861</u>
<b>Expenses</b>					
Interest	(61,204)	238,312	159,137	—	336,245
Depreciation and amortization	4,140	6,062	645,096	—	655,298
Property-level operating expenses	—	235	1,110,789	—	1,111,024
Office building services costs	—	—	1,708	—	1,708
General, administrative and professional fees	412	13,570	86,578	—	100,560
Loss (gain) on extinguishment of debt, net	—	942	(86)	—	856
Merger-related expenses and deal costs	8,007	—	896	—	8,903
Other	1,743	—	14,323	—	16,066
Total expenses	<u>(46,902)</u>	<u>259,121</u>	<u>2,018,441</u>	<u>—</u>	<u>2,230,660</u>
Income (loss) before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	959,571	(117,404)	519,192	(913,158)	448,201
Income from unconsolidated entities	—	—	3,794	—	3,794
Income tax benefit	4,440	—	8,679	—	13,119
Income (loss) from continuing operations	964,011	(117,404)	531,665	(913,158)	465,114
Discontinued operations	(95)	—	—	—	(95)
Gain on real estate dispositions	—	472,732	29,556	—	502,288
Net income	<u>963,916</u>	<u>355,328</u>	<u>561,221</u>	<u>(913,158)</u>	<u>967,307</u>
Net income attributable to noncontrolling interests	—	—	3,391	—	3,391
Net income attributable to common stockholders	<u>\$ 963,916</u>	<u>\$ 355,328</u>	<u>\$ 557,830</u>	<u>\$ (913,158)</u>	<u>\$ 963,916</u>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENTS OF COMPREHENSIVE INCOME**

	<b>For the Three Months Ended September 30, 2018</b>				
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>
(In thousands)					
Net income (loss)	\$ 101,972	\$ (87,267)	\$ 161,750	\$ (73,174)	\$ 103,281
Other comprehensive income:					
Foreign currency translation	—	—	(5,018)	—	(5,018)
Unrealized gain on marketable debt securities	—	—	5,131	—	5,131
Other	—	—	2,801	—	2,801
Total other comprehensive income	—	—	2,914	—	2,914
Comprehensive income (loss)	101,972	(87,267)	164,664	(73,174)	106,195
Comprehensive income attributable to noncontrolling interests	—	—	1,309	—	1,309
Comprehensive income (loss) attributable to common stockholders	\$ 101,972	\$ (87,267)	\$ 163,355	\$ (73,174)	\$ 104,886
	<b>For the Three Months Ended September 30, 2017</b>				
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>
(In thousands)					
Net income	\$ 613,958	\$ 415,124	\$ 185,117	\$ (599,008)	\$ 615,191
Other comprehensive income:					
Foreign currency translation	—	—	5,239	—	5,239
Unrealized loss on marketable debt securities	—	—	(48)	—	(48)
Other	—	—	(936)	—	(936)
Total other comprehensive income	—	—	4,255	—	4,255
Comprehensive income	613,958	415,124	189,372	(599,008)	619,446
Comprehensive income attributable to noncontrolling interests	—	—	1,233	—	1,233
Comprehensive income attributable to common stockholders	\$ 613,958	\$ 415,124	\$ 188,139	\$ (599,008)	\$ 618,213

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENTS OF COMPREHENSIVE INCOME**

	<b>For the Nine Months Ended September 30, 2018</b>					<b>Consolidated Elimination</b>	<b>Consolidated</b>
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>		
	<b>(In thousands)</b>						
Net income (loss)	\$ 347,194	\$ (207,818)	\$ 489,328	\$ (276,025)	\$ 352,679		
Other comprehensive income:							
Foreign currency translation	—	—	(8,061)	—	(8,061)		
Unrealized gain on marketable debt securities	—	—	17,816	—	17,816		
Other	—	—	17,418	—	17,418		
Total other comprehensive income	—	—	27,173	—	27,173		
Comprehensive income (loss)	347,194	(207,818)	516,501	(276,025)	379,852		
Comprehensive income attributable to noncontrolling interests	—	—	5,485	—	5,485		
Comprehensive income (loss) attributable to common stockholders	\$ 347,194	\$ (207,818)	\$ 511,016	\$ (276,025)	\$ 374,367		

	<b>For the Nine Months Ended September 30, 2017</b>					<b>Consolidated Elimination</b>	<b>Consolidated</b>
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>		
	<b>(In thousands)</b>						
Net income	\$ 963,916	\$ 355,328	\$ 561,221	\$ (913,158)	\$ 967,307		
Other comprehensive income:							
Foreign currency translation	—	—	17,607	—	17,607		
Unrealized loss on marketable debt securities	—	—	(233)	—	(233)		
Other	—	—	(620)	—	(620)		
Total other comprehensive income	—	—	16,754	—	16,754		
Comprehensive income	963,916	355,328	577,975	(913,158)	984,061		
Comprehensive income attributable to noncontrolling interests	—	—	3,391	—	3,391		
Comprehensive income attributable to common stockholders	\$ 963,916	\$ 355,328	\$ 574,584	\$ (913,158)	\$ 980,670		

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS**

	<b>For the Nine Months Ended September 30, 2018</b>				
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>
	<b>(In thousands)</b>				
<b>Net cash provided by (used in) operating activities</b>	\$ 30,077	\$ (163,311)	\$ 1,150,856	\$ —	\$ 1,017,622
<b>Cash flows from investing activities:</b>					
Net investment in real estate property	(35,800)	—	—	—	(35,800)
Investment in loans receivable	(3,036)	—	(209,053)	—	(212,089)
Proceeds from real estate disposals	331,243	—	—	—	331,243
Proceeds from loans receivable	1,473	—	864,840	—	866,313
Development project expenditures	—	—	(230,348)	—	(230,348)
Capital expenditures	—	—	(73,025)	—	(73,025)
Distributions from unconsolidated entities	—	—	57,430	—	57,430
Investment in unconsolidated entities	—	—	(45,106)	—	(45,106)
Insurance proceeds for property damage claims	—	—	6,327	—	6,327
<b>Net cash provided by investing activities</b>	<b>293,880</b>	<b>—</b>	<b>371,065</b>	<b>—</b>	<b>664,945</b>
<b>Cash flows from financing activities:</b>					
Net change in borrowings under revolving credit facilities	—	49,438	(8,146)	—	41,292
Proceeds from debt	—	2,309,141	103,279	—	2,412,420
Repayment of debt	—	(2,949,456)	(344,648)	—	(3,294,104)
Purchase of noncontrolling interests	(2,429)	—	—	—	(2,429)
Net change in intercompany debt	976,533	769,781	(1,746,314)	—	—
Payment of deferred financing costs	—	(15,593)	(990)	—	(16,583)
Cash distribution (to) from affiliates	(473,343)	—	473,343	—	—
Cash distribution to common stockholders	(845,248)	—	—	—	(845,248)
Cash distribution to redeemable OP Unitholders	—	—	(5,594)	—	(5,594)
Cash issued for redemption of OP and Class C Units	—	—	(1,370)	—	(1,370)
Contributions from noncontrolling interests	—	—	500	—	500
Distributions to noncontrolling interests	—	—	(9,968)	—	(9,968)
Other	(736)	—	—	—	(736)
<b>Net cash (used in) provided by financing activities</b>	<b>(345,223)</b>	<b>163,311</b>	<b>(1,539,908)</b>	<b>—</b>	<b>(1,721,820)</b>
Net decrease in cash, cash equivalents and restricted cash	(21,266)	—	(17,987)	—	(39,253)
Effect of foreign currency translation	(12,190)	—	11,737	—	(453)
Cash, cash equivalents and restricted cash at beginning of period	46,945	128	141,180	—	188,253
<b>Cash, cash equivalents and restricted cash at end of period</b>	<b>\$ 13,489</b>	<b>\$ 128</b>	<b>\$ 134,930</b>	<b>\$ —</b>	<b>\$ 148,547</b>

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS - Continued**  
**(Unaudited)**

**CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS**

	<b>For the Nine Months Ended September 30, 2017</b>				
	<b>Ventas, Inc.</b>	<b>Ventas Realty</b>	<b>Ventas Subsidiaries</b>	<b>Consolidated Elimination</b>	<b>Consolidated</b>
	<b>(In thousands)</b>				
<b>Net cash provided by (used in) operating activities</b>	\$ 60,382	\$ (87,781)	\$ 1,109,624	\$ —	\$ 1,082,225
<b>Cash flows from investing activities:</b>					
Net investment in real estate property	(317,785)	—	(28,706)	—	(346,491)
Investment in loans receivable	(2,727)	—	(731,306)	—	(734,033)
Proceeds from real estate disposals	616,637	—	(1,884)	—	614,753
Proceeds from loans receivable	36	—	84,325	—	84,361
Development project expenditures	—	—	(210,423)	—	(210,423)
Capital expenditures	—	(604)	(82,783)	—	(83,387)
Distributions from unconsolidated entities	—	—	5,816	—	5,816
Investment in unconsolidated entities	—	—	(42,399)	—	(42,399)
Insurance proceeds for property damage claims	—	—	1,393	—	1,393
<b>Net cash provided by (used in) investing activities</b>	<b>296,161</b>	<b>(604)</b>	<b>(1,005,967)</b>	<b>—</b>	<b>(710,410)</b>
<b>Cash flows from financing activities:</b>					
Net change in borrowings under revolving credit facility	—	467,000	(82,262)	—	384,738
Proceeds from debt	—	793,904	264,533	—	1,058,437
Repayment of debt	—	(778,606)	(446,919)	—	(1,225,525)
Purchase of noncontrolling interests	(15,809)	—	—	—	(15,809)
Net change in intercompany debt	743,966	(748,587)	4,621	—	—
Payment of deferred financing costs	—	(20,450)	(5,976)	—	(26,426)
Issuance of common stock, net	73,596	—	—	—	73,596
Cash distribution (to) from affiliates	(562,534)	373,748	188,786	—	—
Cash distribution to common stockholders	(827,285)	—	—	—	(827,285)
Cash distribution to redeemable OP Unitholders	—	—	(5,677)	—	(5,677)
Contributions from noncontrolling interest	—	—	4,402	—	4,402
Distributions to noncontrolling interests	—	—	(9,248)	—	(9,248)
Other	10,543	—	—	—	10,543
<b>Net cash (used in) provided by financing activities</b>	<b>(577,523)</b>	<b>87,009</b>	<b>(87,740)</b>	<b>—</b>	<b>(578,254)</b>
Net (decrease) increase in cash, cash equivalents and restricted cash	(220,980)	(1,376)	15,917	—	(206,439)
Effect of foreign currency translation	25,481	—	(24,811)	—	670
Cash, cash equivalents and restricted cash at beginning of period	207,789	1,504	158,061	—	367,354
<b>Cash, cash equivalents and restricted cash at end of period</b>	<b>\$ 12,290</b>	<b>\$ 128</b>	<b>\$ 149,167</b>	<b>\$ —</b>	<b>\$ 161,585</b>

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

*Unless otherwise indicated or except where the context otherwise requires, the terms “we,” “us” and “our” and other similar terms in Item 2 of this Quarterly Report on Form 10-Q refer to Ventas, Inc. and its consolidated subsidiaries.*

### **Cautionary Statements**

#### ***Forward-Looking Statements***

This Quarterly Report on Form 10-Q includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements regarding our or our tenants’, operators’, borrowers’ or managers’ expected future financial condition, results of operations, cash flows, funds from operations, dividends and dividend plans, financing opportunities and plans, capital markets transactions, business strategy, budgets, projected costs, operating metrics, capital expenditures, competitive positions, acquisitions, investment opportunities, dispositions, merger integration, growth opportunities, expected lease income, continued qualification as a real estate investment trust (“REIT”), plans and objectives of management for future operations, and statements that include words such as “anticipate,” “if,” “believe,” “plan,” “estimate,” “expect,” “intend,” “may,” “could,” “should,” “will,” and other similar expressions are forward-looking statements. These forward-looking statements are inherently uncertain, and actual results may differ from our expectations. We do not undertake a duty to update these forward-looking statements, which speak only as of the date on which they are made.

Our actual future results and trends may differ materially from expectations depending on a variety of factors discussed in our filings with the Securities and Exchange Commission (the “SEC”). These factors include without limitation:

- The ability and willingness of our tenants, operators, borrowers, managers and other third parties to satisfy their obligations under their respective contractual arrangements with us, including, in some cases, their obligations to indemnify, defend and hold us harmless from and against various claims, litigation and liabilities;
- The ability of our tenants, operators, borrowers and managers to maintain the financial strength and liquidity necessary to satisfy their respective obligations and liabilities to third parties, including without limitation obligations under their existing credit facilities and other indebtedness;
- Our success in implementing our business strategy and our ability to identify, underwrite, finance, consummate and integrate diversifying acquisitions and investments;
- Macroeconomic conditions such as a disruption of or lack of access to the capital markets, changes in the debt rating on U.S. government securities, default or delay in payment by the United States of its obligations, and changes in the federal or state budgets resulting in the reduction or nonpayment of Medicare or Medicaid reimbursement rates;
- The nature and extent of future competition, including new construction in the markets in which our seniors housing communities and office buildings are located;
- The extent and effect of future or pending healthcare reform and regulation, including cost containment measures and changes in reimbursement policies, procedures and rates;
- Increases in our borrowing costs as a result of changes in interest rates and other factors;
- The ability of our tenants, operators and managers, as applicable, to comply with laws, rules and regulations in the operation of our properties, to deliver high-quality services, to attract and retain qualified personnel and to attract residents and patients;
- Changes in general economic conditions or economic conditions in the markets in which we may, from time to time, compete, and the effect of those changes on our revenues, earnings and funding sources;
- Our ability to pay down, refinance, restructure or extend our indebtedness as it becomes due;
- Our ability and willingness to maintain our qualification as a REIT in light of economic, market, legal, tax and other considerations;

- Final determination of our taxable net income for the year ending December 31, 2018;
- The ability and willingness of our tenants to renew their leases with us upon expiration of the leases, our ability to reposition our properties on the same or better terms in the event of nonrenewal or in the event we exercise our right to replace an existing tenant, and obligations, including indemnification obligations, we may incur in connection with the replacement of an existing tenant;
- Risks associated with our senior living operating portfolio, such as factors that can cause volatility in our operating income and earnings generated by those properties, including without limitation national and regional economic conditions, development of new competing properties, costs of food, materials, energy, labor and services, employee benefit costs, insurance costs and professional and general liability claims, and the timely delivery of accurate property-level financial results for those properties;
- Changes in exchange rates for any foreign currency in which we may, from time to time, conduct business;
- Year-over-year changes in the Consumer Price Index or the U.K. Retail Price Index and the effect of those changes on the rent escalators contained in our leases and on our earnings;
- Our ability and the ability of our tenants, operators, borrowers and managers to obtain and maintain adequate property, liability and other insurance from reputable, financially stable providers;
- The impact of increased operating costs and uninsured professional liability claims on our liquidity, financial condition and results of operations or that of our tenants, operators, borrowers and managers and our ability and the ability of our tenants, operators, borrowers and managers to accurately estimate the magnitude of those claims;
- Risks associated with our office building portfolio and operations, including our ability to successfully design, develop and manage office buildings and to retain key personnel;
- The ability of the hospitals on or near whose campuses our medical office buildings (“MOBs”) are located and their affiliated health systems to remain competitive and financially viable and to attract physicians and physician groups;
- Risks associated with our investments in joint ventures and unconsolidated entities, including our lack of sole decision-making authority and our reliance on our joint venture partners’ financial condition;
- Our ability to obtain the financial results expected from our development and redevelopment projects, including projects undertaken through our joint ventures;
- The impact of market or issuer events on the liquidity or value of our investments in marketable securities;
- Consolidation in the seniors housing and healthcare industries resulting in a change of control of, or a competitor’s investment in, one or more of our tenants, operators, borrowers or managers or significant changes in the senior management of our tenants, operators, borrowers or managers;
- The impact of litigation or any financial, accounting, legal or regulatory issues that may affect us or our tenants, operators, borrowers or managers; and
- Changes in accounting principles, or their application or interpretation, and our ability to make estimates and the assumptions underlying the estimates, which could have an effect on our earnings.

Many of these factors are beyond our control and the control of our management.

#### ***Brookdale Senior Living, Kindred, Atria, Sunrise and Ardent Information***

Brookdale Senior Living Inc. (together with its subsidiaries, “Brookdale Senior Living”) is subject to the reporting requirements of the SEC and is required to file with the SEC annual reports containing audited financial information and quarterly reports containing unaudited financial information. Kindred Healthcare, LLC (formerly Kindred Healthcare, Inc., together with its subsidiaries, “Kindred”) is not currently subject to the reporting requirements of the SEC, but was subject to such reporting requirements prior to the closing of its acquisition by a consortium of TPG Capital (“TPG”), Welsh, Carson, Anderson & Stowe (“WCAS”) and Humana, Inc. in July 2018. The information related to Brookdale Senior Living and

Kindred contained or referred to in this Quarterly Report on Form 10-Q has been derived from SEC filings made by Brookdale Senior Living or Kindred, as the case may be, or other publicly available information, or was provided to us by Brookdale Senior Living or Kindred, and we have not verified this information through an independent investigation or otherwise. We have no reason to believe that this information is inaccurate in any material respect, but we cannot assure you of its accuracy. We are providing this data for informational purposes only, and you are encouraged to obtain Brookdale Senior Living's and Kindred's publicly available filings, which can be found on the SEC's website at [www.sec.gov](http://www.sec.gov).

Atria Senior Living, Inc. ("Atria"), Sunrise Senior Living, LLC (together with its subsidiaries, "Sunrise"), Ardent Health Partners, LLC (together with its subsidiaries, "Ardent") and Kindred are not currently subject to the reporting requirements of the SEC. The information related to Atria, Sunrise, Ardent and Kindred contained or referred to in this Quarterly Report on Form 10-Q has been derived from publicly available information or was provided to us by Atria, Sunrise, Ardent or Kindred, as the case may be, and we have not verified this information through an independent investigation or otherwise. We have no reason to believe that this information is inaccurate in any material respect, but we cannot assure you of its accuracy.

## Company Overview

We are a REIT with a highly diversified portfolio of seniors housing, life science and innovation and healthcare properties located throughout the United States, Canada and the United Kingdom. As of September 30, 2018, we owned approximately 1,200 properties (including properties owned through investments in unconsolidated entities and properties classified as held for sale), consisting of seniors housing communities, MOBs, life science and innovation centers, inpatient rehabilitation facilities ("IRFs") and long-term acute care facilities ("LTACs"), health systems and skilled nursing facilities ("SNFs"), and we had 16 properties under development, including five properties that are owned by unconsolidated real estate entities. We are an S&P 500 company headquartered in Chicago, Illinois.

We primarily invest in seniors housing, life science and innovation and healthcare properties through acquisitions and lease our properties to unaffiliated tenants or operate them through independent third-party managers. As of September 30, 2018, we leased a total of 468 properties (excluding properties within our office operations reportable business segment) to various healthcare operating companies under "triple-net" or "absolute-net" leases that obligate the tenants to pay all property-related expenses, including maintenance, utilities, repairs, taxes, insurance and capital expenditures.

As of September 30, 2018, pursuant to long-term management agreements, we engaged independent operators, such as Atria and Sunrise, to manage 360 seniors housing communities for us.

Our three largest tenants, Brookdale Senior Living, Ardent and Kindred leased from us 135 properties (excluding one property managed by Brookdale Senior Living pursuant to a long-term management agreement), 11 properties and 32 properties, respectively, as of September 30, 2018.

Through our Lillibrige Healthcare Services, Inc. subsidiary and our ownership interest in PMB Real Estate Services LLC, we also provide MOB management, leasing, marketing, facility development and advisory services to highly rated hospitals and health systems throughout the United States. In addition, from time to time, we make secured and non-mortgage loans and other investments relating to seniors housing and healthcare operators or properties.

We aim to enhance shareholder value by delivering consistent, superior total returns through a strategy of: (1) generating reliable and growing cash flows; (2) maintaining a balanced, diversified portfolio of high-quality assets; and (3) preserving our financial strength, flexibility and liquidity.

Our ability to access capital in a timely and cost effective manner is critical to the success of our business strategy because it affects our ability to satisfy existing obligations, including the repayment of maturing indebtedness, and to make future investments. Factors such as general market conditions, interest rates, credit ratings on our securities, expectations of our potential future earnings and cash distributions, and the trading price of our common stock that are beyond our control and fluctuate over time all impact our access to and cost of external capital. For that reason, we generally attempt to match the long-term duration of our investments in real property with long-term financing through the issuance of shares of our common stock or the incurrence of long-term fixed rate debt.

## **Operating Highlights and Key Performance Trends**

### **2018 Highlights and Other Recent Developments**

#### *Investments and Dispositions*

- During the nine months ended September 30, 2018, we received \$846.7 million for the full repayment of the principal balances of ten loans receivable with a weighted average interest rate of 9.1% that were due to mature between 2018 and 2033.
- Included in the repayments above is \$713 million that we received in June 2018 for the full repayment of the principal balance of a \$700 million term loan and \$13 million then outstanding on a revolving line of credit we made to a subsidiary of Ardent. We also received a \$14.0 million cash pre-payment fee and accelerated recognition of the unamortized portion (\$13.2 million) of a previously received cash “upfront” fee for the loans, resulting in income of \$27.2 million, which is recorded in income from loans and investments in our Consolidated Statements of Income.
- In June 2018, we made a \$200 million investment in senior unsecured notes issued by a subsidiary of Ardent at a price of 98.6% of par value. The notes have an effective interest rate of 10.0% and mature in 2026.
- During the nine months ended September 30, 2018, we sold seven seniors housing communities included in our senior living operations reportable business segment, five triple-net leased properties, nine MOBs and two vacant land parcels for aggregate consideration of \$326.1 million, and we recognized a gain on the sale of these assets of \$35.9 million.

#### *Liquidity, Capital and Dividends*

- During the nine months ended September 30, 2018, we paid the fourth quarterly installment of our 2017 dividend and the first and second quarterly installments of our 2018 dividend, each \$0.79 per share. In September 2018, we declared the third quarterly installment of our 2018 dividend of \$0.79 per share, which was paid in October 2018.
- In February 2018, our wholly-owned subsidiary, Ventas Realty, Limited Partnership (“Ventas Realty”), issued and sold \$650.0 million aggregate principal amount of 4.00% senior notes due 2028 at a public offering price equal to 99.23% of par, for total proceeds of \$645.0 million before the underwriting discount and expenses.
- In February 2018, we redeemed \$502.1 million aggregate principal amount then outstanding of our 4.00% senior notes due April 2019 at a public offering price of 101.83% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$11.0 million. The redemption was funded using cash on hand and borrowings under our unsecured revolving credit facility. In April 2018, we repaid the remaining balance then outstanding of our 4.00% senior notes due April 2019 of \$97.9 million and recognized a loss on extinguishment of debt of \$1.8 million.
- In February 2018, we repaid in full, at par, \$700.0 million aggregate principal amount then outstanding of our 2.00% senior notes due February 2018 upon maturity.
- In July 2018, we entered into a new \$900.0 million unsecured term loan facility priced at LIBOR plus 0.90%, that replaced and repaid in full our previous \$900.0 million unsecured term loan due 2020 priced at LIBOR plus 0.975%. The new term loan facility is comprised of a \$300.0 million term loan that matures in 2023 and a \$600.0 million term loan that matures in 2024. The new unsecured term loan facility also includes an accordion feature that permits us to increase our aggregate borrowings thereunder to up to \$1.5 billion.
- In August 2018, Ventas Realty issued and sold \$750.0 million aggregate principal amount of 4.400% senior notes due 2029 at a public offering price equal to 99.95% of par, for total proceeds of \$749.7 million before the underwriting discount and expenses.
- In August 2018, we redeemed \$549.5 million aggregate principal amount then outstanding of our 4.75% senior notes due 2021 at a public offering price of 104.56% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$28.3 million. The redemption was funded using proceeds from our August 2018 senior note issuance, cash on hand and borrowings under our unsecured revolving credit facility. In

September 2018, we repaid the remaining balance then outstanding of our 4.75% senior notes due 2021 of \$150.5 million and recognized a loss on extinguishment of debt of \$7.6 million.

#### *Portfolio*

- In January 2018, we transitioned the management of 76 private pay seniors housing communities to Eclipse Senior Living (“ESL”). These assets, substantially all of which were previously leased by Elmcroft Senior Living (“Elmcroft”) under triple-net leases, are now operated by ESL under a management contract with us and are included in the senior living operations reportable business segment. We acquired a 34% ownership interest in ESL with customary rights and protections, including the right to appoint two of six members to the ESL Board of Directors. ESL management owns the 66% controlling interest.
- In April 2018, we entered into various agreements with Brookdale Senior Living that provide for, among other things: (a) a consolidation of substantially all of our multiple lease agreements with Brookdale Senior Living into one guaranteed master lease (the “Master Lease”); (b) extension of the term for substantially all of our Brookdale Senior Living leased properties until at least December 31, 2025; and (c) a restructuring of the annual cash rent for the Brookdale Senior Living leased properties. In connection with these agreements, we recognized a net non-cash expense of \$21.3 million for the acceleration of straight-line rent receivables, net unamortized market lease intangibles and deferred revenues, which is included in triple-net leased rental income in our Consolidated Statements of Income. We also received a fee of \$2.5 million that is being amortized over the new lease term. The agreements also contemplate the sale of certain properties under the Master Lease. However, we cannot provide any assurance that we will be able to successfully complete the sales on a timely basis or at all.

#### *Concentration Risk*

We use concentration ratios to identify, understand and evaluate the potential impact of economic downturns and other adverse events that may affect our asset types, geographic locations, business models, tenants, operators and managers. We evaluate concentration risk in terms of investment mix and operations mix. Investment mix measures the percentage of our investments that is concentrated in a specific asset type or that is operated or managed by a particular tenant, operator or manager. Operations mix measures the percentage of our operating results that is attributed to a particular tenant, operator or manager, geographic location or business model. The following tables reflect our concentration risk as of the dates and for the periods presented:

	As of September 30, 2018	As of December 31, 2017
<b>Investment mix by asset type<sup>(1)</sup>:</b>		
Seniors housing communities	61.7%	60.3%
MOBs	20.2	19.8
Life science and innovation centers	8.0	7.3
Health systems	5.6	5.3
IRFs and LTACs	1.7	1.7
SNFs	0.8	0.7
Secured loans receivable and investments, net	2.0	4.9
<b>Investment mix by tenant, operator and manager<sup>(1)</sup>:</b>		
Atria	22.4%	22.3%
Sunrise	11.2	10.8
Brookdale Senior Living	7.7	7.5
Ardent	5.2	4.9
Kindred	1.1	1.1
All other	52.4	53.4

<sup>(1)</sup> Ratios are based on the gross book value of consolidated real estate investments (excluding properties classified as held for sale) as of each reporting date.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
<b>Operations mix by tenant and operator and business model:</b>				
Revenues <sup>(1)</sup> :				
Senior living operations	55.4%	51.3%	55.0%	51.7%
Brookdale Senior Living <sup>(2)(3)</sup>	4.8	4.9	4.0	4.9
Ardent	3.1	3.1	3.0	3.1
Kindred <sup>(4)</sup>	3.5	4.7	3.4	4.9
All others	33.2	36.0	34.6	35.4
Adjusted EBITDA <sup>(5)</sup> :				
Senior living operations	31.3%	29.1%	31.1%	29.8%
Brookdale Senior Living <sup>(2)(3)</sup>	8.2	7.7	6.2	7.7
Ardent	5.2	5.1	5.0	5.1
Kindred <sup>(4)</sup>	5.8	7.9	5.5	8.2
All others	49.5	50.2	52.2	49.2
Net operating income <sup>(6)</sup> :				
Senior living operations	30.7%	27.9%	30.8%	28.7%
Brookdale Senior Living <sup>(2)(3)</sup>	8.9	8.4	7.1	8.3
Ardent	5.8	5.3	5.6	5.3
Kindred <sup>(4)</sup>	6.6	8.1	6.3	8.4
All others	48.0	50.3	50.2	49.3
<b>Operations mix by geographic location<sup>(7)</sup>:</b>				
California	15.8%	15.2%	15.7%	15.3%
New York	8.5	8.6	8.3	8.6
Texas	6.3	5.7	6.2	5.8
Pennsylvania	4.5	4.1	4.5	4.2
Illinois	4.3	4.7	4.0	4.8
All others	60.6	61.7	61.3	61.3

(1) Total revenues include office building and other services revenue, revenue from loans and investments and interest and other income (excluding amounts in discontinued operations and including amounts related to assets classified as held for sale).

(2) Excludes one seniors housing community included in senior living operations.

(3) Includes impact of a net non-cash expense in the second quarter of 2018 of \$21.3 million. See “NOTE 3-CONCENTRATION OF CREDIT RISK” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

(4) Includes 36 SNFs that were sold during 2017.

(5) “Adjusted EBITDA” is defined as consolidated earnings, which includes amounts in discontinued operations, before interest, taxes, depreciation and amortization (including non-cash stock-based compensation expense), excluding gains or losses on extinguishment of debt, our consolidated joint venture partners’ share of EBITDA, merger-related expenses and deal costs, expenses related to the re-audit and re-review in 2014 of our historical financial statements, net gains or losses on real estate activity, gains or losses on re-measurement of equity interest upon acquisition, changes in the fair value of financial instruments, unrealized foreign currency gains or losses, net expenses or recoveries related to natural disasters and non-cash charges related to lease terminations, and including our share of EBITDA from unconsolidated entities and adjustments for other immaterial or identified items.

(6) Net operating income (“NOI”) is defined as total revenues, less interest and other income, property-level operating expenses and office building services costs (excluding amounts in discontinued operations).

(7) Ratios are based on total revenues (excluding amounts in discontinued operations and including amounts related to assets classified as held for sale) for each period presented.

See “Non-GAAP Financial Measures” included elsewhere in this Quarterly Report on Form 10-Q for additional disclosure and reconciliations of income from continuing operations, as computed in accordance with GAAP, to Adjusted EBITDA and NOI, respectively.

#### ***Triple-Net Lease Expirations***

If our tenants are not able or willing to renew our triple-net leases upon expiration, we may be unable to reposition the applicable properties on a timely basis or on the same or better economic terms, if at all. Although our lease expirations are staggered, the non-renewal of some or all of our triple-net leases that expire in any given year could have a material adverse effect on our business, financial condition, results of operations and liquidity, our ability to service our indebtedness and other obligations and our ability to make distributions to our stockholders, as required for us to continue to qualify as a REIT (a “Material Adverse Effect”). During the nine months ended September 30, 2018, we had no triple-net lease renewals or expirations without renewal that, in the aggregate, had a material impact on our financial condition or results of operations for that period.

In April 2018, we entered into various agreements with Brookdale Senior Living that provide for, among other things: (a) a consolidation of substantially all of our multiple lease agreements with Brookdale Senior Living into one Master Lease; (b) extension of the term for substantially all of our Brookdale Senior Living leased properties until December 31, 2025, with Brookdale Senior Living retaining two successive 10 year renewal options; and (c) the guarantee of all the Brookdale Senior Living obligations to us by Brookdale Senior Living Inc., including covenant protections for us. Refer to “2018 Highlights and Other Recent Developments” above for additional information regarding these agreements.

#### **Critical Accounting Policies and Estimates**

Our Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) for interim financial information set forth in the Accounting Standards Codification (“ASC”), as published by the Financial Accounting Standards Board (“FASB”), and with the Securities and Exchange Commission (“SEC”) instructions to Form 10-Q and Article 10 of Regulation S-X. GAAP requires us to make estimates and assumptions regarding future events that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. We base these estimates on our experience and assumptions we believe to be reasonable under the circumstances. However, if our judgment or interpretation of the facts and circumstances relating to various transactions or other matters had been different, we may have applied a different accounting treatment, resulting in a different presentation of our financial statements. We periodically reevaluate our estimates and assumptions, and in the event they prove to be different from actual results, we make adjustments in subsequent periods to reflect more current estimates and assumptions about matters that are inherently uncertain. Please refer to our Annual Report on Form 10-K for the year ended December 31, 2017, filed with the SEC on February 9, 2018, for further information regarding the critical accounting policies that affect our more significant estimates and judgments used in the preparation of our Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

#### ***Principles of Consolidation***

The accompanying Consolidated Financial Statements include our accounts and the accounts of our wholly owned subsidiaries and the joint venture entities over which we exercise control. All intercompany transactions and balances have been eliminated in consolidation, and our net earnings are reduced by the portion of net earnings attributable to noncontrolling interests.

GAAP requires us to identify entities for which control is achieved through means other than voting rights and to determine which business enterprise is the primary beneficiary of variable interest entities (“VIEs”). A VIE is broadly defined as an entity with one or more of the following characteristics: (a) the total equity investment at risk is insufficient to finance the entity’s activities without additional subordinated financial support; (b) as a group, the holders of the equity investment at risk lack (i) the ability to make decisions about the entity’s activities through voting or similar rights, (ii) the obligation to absorb the expected losses of the entity, or (iii) the right to receive the expected residual returns of the entity; and (c) the equity investors have voting rights that are not proportional to their economic interests, and substantially all of the entity’s activities either involve, or are conducted on behalf of, an investor that has disproportionately few voting rights. We consolidate our investment in a VIE when we determine that we are its primary beneficiary. We may change our original assessment of a VIE upon subsequent events such as the modification of contractual arrangements that affects the characteristics or adequacy of the entity’s equity investments at risk and the disposition of all or a portion of an interest held by the primary beneficiary.

We identify the primary beneficiary of a VIE as the enterprise that has both: (i) the power to direct the activities of the VIE that most significantly impact the entity's economic performance; and (ii) the obligation to absorb losses or the right to receive benefits of the VIE that could be significant to the entity. We perform this analysis on an ongoing basis.

As it relates to investments in joint ventures, GAAP may preclude consolidation by the sole general partner in certain circumstances based on the type of rights held by the limited partner or partners. We assess limited partners' rights and their impact on our consolidation conclusions, and we reassess if there is a change to the terms or in the exercisability of the rights of the limited partners, the sole general partner increases or decreases its ownership of limited partnership ("LP") interests or there is an increase or decrease in the number of outstanding LP interests. We also apply this guidance to managing member interests in limited liability companies.

#### ***Accounting for Real Estate Acquisitions***

On January 1, 2017, we adopted Accounting Standards Update ("ASU") 2017-01, *Clarifying the Definition of a Business* ("ASU 2017-01"), which narrows the FASB's definition of a business and provides a framework that gives entities a basis for making reasonable judgments about whether a transaction involves an asset or a business. ASU 2017-01 states that when substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, the acquired asset is not a business. If this initial test is not met, an acquired asset cannot be considered a business unless it includes an input and a substantive process that together significantly contribute to the ability to create output. The primary differences between business combinations and asset acquisitions include recognition of goodwill at the acquisition date and expense recognition for transaction costs as incurred. We are applying ASU 2017-01 prospectively for acquisitions after January 1, 2017.

Regardless of whether an acquisition is considered a business combination or an asset acquisition, we record the cost of the businesses or assets acquired as tangible and intangible assets and liabilities based upon their estimated fair values as of the acquisition date. Intangibles primarily include the value of in-place leases and acquired lease contracts.

We estimate the fair value of buildings acquired on an as-if-vacant basis or replacement cost basis and depreciate the building value over the estimated remaining life of the building, generally not to exceed 35 years. We determine the fair value of other fixed assets, such as site improvements and furniture, fixtures and equipment, based upon the replacement cost and depreciate such value over the assets' estimated remaining useful lives as determined at the applicable acquisition date. We determine the value of land either by considering the sales prices of similar properties in recent transactions or based on internal analyses of recently acquired and existing comparable properties within our portfolio. We generally determine the value of construction in progress based upon the replacement cost. However, for certain acquired properties that are part of a ground-up development, we determine fair value by using the same valuation approach as for all other properties and deducting the estimated cost to complete the development. During the remaining construction period, we capitalize project costs until the development has reached substantial completion. Construction in progress, including capitalized interest, is not depreciated until the development has reached substantial completion.

The fair value of acquired lease-related intangibles, if any, reflects: (i) the estimated value of any above and/or below market leases, determined by discounting the difference between the estimated market rent and in-place lease rent; and (ii) the estimated value of in-place leases related to the cost to obtain tenants, including leasing commissions, and an estimated value of the absorption period to reflect the value of the rent and recovery costs foregone during a reasonable lease-up period as if the acquired space was vacant. We amortize any acquired lease-related intangibles to revenue or amortization expense over the remaining life of the associated lease plus any assumed bargain renewal periods. If a lease is terminated prior to its stated expiration or not renewed upon expiration, we recognize all unamortized amounts of lease-related intangibles associated with that lease in operations at that time.

We estimate the fair value of purchase option intangible assets and liabilities, if any, by discounting the difference between the applicable property's acquisition date fair value and an estimate of its future option price. We do not amortize the resulting intangible asset or liability over the term of the lease, but rather adjust the recognized value of the asset or liability upon sale.

We estimate the fair value of tenant or other customer relationships acquired, if any, by considering the nature and extent of existing relationships with the tenant or customer, growth prospects for developing new business with the tenant or customer, the tenant's credit quality, expectations of lease renewals with the tenant, and the potential for significant, additional future leasing arrangements with the tenant, and we amortize that value over the expected life of the associated arrangements or leases, including the remaining terms of the related leases and any expected renewal periods. We estimate the fair value of

trade names and trademarks using a royalty rate methodology and amortize that value over the estimated useful life of the trade name or trademark.

In connection with an acquisition, we may assume rights and obligations under certain lease agreements pursuant to which we become the lessee of a given property. We generally assume the lease classification previously determined by the prior lessee absent a modification in the assumed lease agreement. We assess assumed operating leases, including ground leases, to determine whether the lease terms are favorable or unfavorable to us given current market conditions on the acquisition date. To the extent the lease terms are favorable or unfavorable to us relative to market conditions on the acquisition date, we recognize an intangible asset or liability at fair value and amortize that asset or liability to interest or rental expense in our Consolidated Statements of Income over the applicable lease term. We include all lease-related intangible assets and liabilities within acquired lease intangibles and accounts payable and other liabilities, respectively, on our Consolidated Balance Sheets.

We determine the fair value of loans receivable acquired by discounting the estimated future cash flows using current interest rates at which similar loans with the same terms and length to maturity would be made to borrowers with similar credit ratings. We do not establish a valuation allowance at the acquisition date because the estimated future cash flows already reflect our judgment regarding their uncertainty. We recognize the difference between the acquisition date fair value and the total expected cash flows as interest income using an effective interest method over the life of the applicable loan. Subsequent to the acquisition date, we evaluate changes regarding the uncertainty of future cash flows and the need for a valuation allowance, as appropriate.

We estimate the fair value of noncontrolling interests assumed consistent with the manner in which we value all of the underlying assets and liabilities.

We calculate the fair value of long-term assumed debt by discounting the remaining contractual cash flows on each instrument at the current market rate for those borrowings, which we approximate based on the rate at which we would expect to incur a replacement instrument on the date of acquisition, and recognize any fair value adjustments related to long-term debt as effective yield adjustments over the remaining term of the instrument.

#### ***Impairment of Long-Lived and Intangible Assets***

We periodically evaluate our long-lived assets, primarily consisting of investments in real estate, for impairment indicators. If indicators of impairment are present, we evaluate the carrying value of the related real estate investments in relation to the future undiscounted cash flows of the underlying operations. In performing this evaluation, we consider market conditions and our current intentions with respect to holding or disposing of the asset. We adjust the net book value of leased properties and other long-lived assets to fair value if the sum of the expected future undiscounted cash flows, including sales proceeds, is less than book value. We recognize an impairment loss at the time we make any such determination.

If impairment indicators arise with respect to intangible assets with finite useful lives, we evaluate impairment by comparing the carrying amount of the asset to the estimated future undiscounted net cash flows expected to be generated by the asset. If estimated future undiscounted net cash flows are less than the carrying amount of the asset, then we estimate the fair value of the asset and compare the estimated fair value to the intangible asset's carrying value. We recognize any shortfall from carrying value as an impairment loss in the current period.

We evaluate our investments in unconsolidated entities for impairment at least annually, and whenever events or changes in circumstances indicate that the carrying value of our investment may exceed its fair value. If we determine that a decline in the fair value of our investment in an unconsolidated entity is other-than-temporary, and if such reduced fair value is below the carrying value, we record an impairment.

We test goodwill for impairment at least annually, and more frequently if indicators arise. We first assess qualitative factors, such as current macroeconomic conditions, state of the equity and capital markets and our overall financial and operating performance, to determine the likelihood that the fair value of a reporting unit is less than its carrying amount. If we determine it is more likely than not that the fair value of a reporting unit is less than its carrying amount, we proceed with the two-step approach to evaluating impairment. First, we estimate the fair value of the reporting unit and compare it to the reporting unit's carrying value. If the carrying value exceeds fair value, we proceed with the second step, which requires us to assign the fair value of the reporting unit to all of the assets and liabilities of the reporting unit as if it had been acquired in a business combination at the date of the impairment test. The excess fair value of the reporting unit over the amounts assigned to the assets and liabilities is the implied value of goodwill and is used to determine the amount of impairment. We recognize an impairment loss to the extent the carrying value of goodwill exceeds the implied value in the current period.

Estimates of fair value used in our evaluation of goodwill (if necessary based on our qualitative assessment), investments in real estate, investments in unconsolidated entities and intangible assets are based upon discounted future cash flow projections or other acceptable valuation techniques that are based, in turn, upon all available evidence including level three inputs, such as revenue and expense growth rates, estimates of future cash flows, capitalization rates, discount rates, general economic conditions and trends, or other available market data. Our ability to accurately predict future operating results and cash flows and to estimate and determine fair values impacts the timing and recognition of impairments. While we believe our assumptions are reasonable, changes in these assumptions may have a material impact on our financial results.

#### **Revenue Recognition**

##### *Adoption of ASC 606*

On January 1, 2018, we adopted ASC 606, *Revenue from Contracts with Customers* (“ASC 606”), which outlines a comprehensive model for entities to use in accounting for revenue arising from contracts with customers. ASC 606 states that “an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.” We account for revenues from management contracts (within office building and other services revenue in our Consolidated Statements of Income) and certain point-of-sale transactions (within resident fees and services in our Consolidated Statements of Income) in accordance with ASC 606. The pattern and timing of recognition of income is consistent with the prior accounting model. All other revenues, primarily rental income from leasing activities, is accounted for in accordance with other applicable GAAP. We adopted ASC 606 using the modified retrospective method.

##### *Triple-Net Leased Properties and Office Operations*

Certain of our triple-net leases and most of our MOB and life science and innovation center (collectively, “office operations”) leases provide for periodic and determinable increases in base rent. We recognize base rental revenues under these leases on a straight-line basis over the applicable lease term when collectability is reasonably assured. Recognizing rental income on a straight-line basis generally results in recognized revenues during the first half of a lease term exceeding the cash amounts contractually due from our tenants, creating a straight-line rent receivable that is included in other assets on our Consolidated Balance Sheets.

Certain of our leases provide for periodic increases in base rent only if certain revenue parameters or other substantive contingencies are met. We recognize the increased rental revenue under these leases as the related parameters or contingencies are met, rather than on a straight-line basis over the applicable lease term.

##### *Senior Living Operations*

We recognize resident fees and services, other than move-in fees, monthly as services are provided. We recognize move-in fees on a straight-line basis over the average resident stay.

##### *Other*

We recognize interest income from loans and investments, including discounts and premiums, using the effective interest method when collectability is reasonably assured. We apply the effective interest method on a loan-by-loan basis and recognize discounts and premiums as yield adjustments over the related loan term. We recognize interest income on an impaired loan to the extent our estimate of the fair value of the collateral is sufficient to support the balance of the loan, other receivables and all related accrued interest. When the balance of the loan, other receivables and all related accrued interest is equal to or less than our estimate of the fair value of the collateral, we recognize interest income on a cash basis. We provide a reserve against an impaired loan to the extent our total investment in the loan exceeds our estimate of the fair value of the loan collateral.

##### *Allowances*

We assess the collectability of our rent receivables, including straight-line rent receivables. We base our assessment of the collectability of rent receivables (other than straight-line rent receivables) on several factors, including, among other things, payment history, the financial strength of the tenant and any guarantors, the value of the underlying collateral, if any, and current economic conditions. If our evaluation of these factors indicates it is probable that we will be unable to recover the full value of the receivable, we provide a reserve against the portion of the receivable that we estimate may not be recovered. We base our assessment of the collectability of straight-line rent receivables on several factors, including, among other things, the

financial strength of the tenant and any guarantors, the historical operations and operating trends of the property, the historical payment pattern of the tenant and the type of property. If our evaluation of these factors indicates it is probable that we will be unable to receive the rent payments due in the future, we provide a reserve against the recognized straight-line rent receivable asset for the portion, up to its full value, that we estimate may not be recovered. If we change our assumptions or estimates regarding the collectability of future rent payments required by a lease, we may adjust our reserve to increase or reduce the rental revenue recognized in the period we make such change in our assumptions or estimates.

#### ***Recently Issued or Adopted Accounting Standards***

In February 2016, the FASB established ASC Topic 842, *Leases* (“ASC 842”) by issuing ASU 2016-02, *Leases* (“ASU 2016-02”), which introduces a lessee model that brings most leases on the balance sheet and, among other changes, eliminates the requirement in current GAAP for an entity to use bright-line tests in determining lease classification. ASC 842 has subsequently been amended by other issued ASUs to clarify and improve the standard as well as to provide certain practical expedients.

ASC 842 allows for several practical expedients which permit the following: no reassessment of lease classification or initial direct costs; use of the standard’s effective date as the date of initial application; and no separation of non-lease components from the related lease components and, instead, to account for those components as a single lease component if certain criteria are met. We expect to elect these practical expedients and adopt ASC 842 on January 1, 2019 using the effective date as our date of initial application. Therefore, financial information and disclosures under ASC 842 will not be provided for periods prior to January 1, 2019.

Upon adoption, we will recognize both right of use assets and lease liabilities for leases in which we lease land, real property or other equipment. We will also begin reporting revenues and expenses within our triple-net leased properties reportable business segment for real estate taxes and insurance that are the obligations of the tenants in accordance with their respective leases with us. This reporting will have no impact on our net income. Resident leases within our senior living operations reportable business segment are accounted for as leases but also contain service elements. We expect to elect the practical expedient to account for our resident leases as a single lease component. Also, upon adoption, we will begin expensing certain leasing costs, other than leasing commissions, as they are incurred, which may reduce our net income. Current GAAP provides for the deferral and amortization of such costs over the applicable lease term. We will continue to amortize any unamortized deferred lease costs as of December 31, 2018 over their respective lease terms. We are currently evaluating the initial balance sheet impact and developing processes and internal controls to account for all leases under ASC 842.

On January 1, 2018, we adopted ASU 2016-15, *Classification of Certain Cash Receipts and Cash Payments* (“ASU 2016-15”), which provides clarification regarding how certain cash receipts and cash payments are presented and classified in the statement of cash flows and ASU 2016-18, *Restricted Cash* (“ASU 2016-18”), which requires an entity to show the changes in total cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows. We adopted these ASUs by applying a retrospective transition method which required a restatement of our Consolidated Statement of Cash Flows for all periods presented.

On January 1, 2018, we adopted the provisions of ASC 610-20, *Gains and Losses from the Derecognition of Nonfinancial Assets* (“ASC 610-20”). In accordance with ASC 610-20, we recognize any gains when we transfer control of a property and when it is probable that we will collect substantially all of the related consideration. We adopted ASC 610-20 using the modified retrospective method and recognized a cumulative effect adjustment to retained earnings of \$31.2 million relating to deferred gains on sales of real estate assets in 2015.

On January 1, 2018, we adopted ASU 2016-16, *Intra-Entity Transfers of Assets Other Than Inventory* (“ASU 2016-16”), which requires a company to recognize the tax consequences of an intra-entity transfer of an asset, other than inventory, when the transfer occurs. We adopted ASU 2016-16 by applying a modified retrospective method which resulted in a cumulative effect adjustment to retained earnings of \$0.6 million.

#### **Results of Operations**

As of September 30, 2018, we operated through three reportable business segments: triple-net leased properties, senior living operations and office operations. In our triple-net leased properties segment, we invest in and own seniors housing and healthcare properties throughout the United States and the United Kingdom and lease those properties to healthcare operating companies under “triple-net” or “absolute-net” leases that obligate the tenants to pay all property-related expenses. In our senior living operations segment, we invest in seniors housing communities throughout the United States and Canada and

engage independent operators, such as Atria and Sunrise, to manage those communities. In our office operations segment, we primarily acquire, own, develop, lease and manage MOBs and life science and innovation centers throughout the United States. Information provided for “all other” includes income from loans and investments and other miscellaneous income and various corporate-level expenses not directly attributable to any of our three reportable business segments. Assets included in “all other” consist primarily of corporate assets, including cash, restricted cash, loans receivable and investments, and miscellaneous accounts receivable.

Our chief operating decision makers evaluate performance of the combined properties in each reportable business segment and determine how to allocate resources to those segments, in significant part, based on segment NOI and related measures. For further information regarding our reportable business segments and a discussion of our definition of segment NOI, see “NOTE 15—SEGMENT INFORMATION” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

#### **Three Months Ended September 30, 2018 and 2017**

The table below shows our results of operations for the three months ended September 30, 2018 and 2017 and the effect of changes in those results from period to period on our net income attributable to common stockholders.

	For the Three Months Ended September 30,		(Decrease) Increase to Net Income	
	2018	2017	\$	%
(Dollars in thousands)				
<b>Segment NOI:</b>				
Triple-net leased properties	\$ 190,319	\$ 213,495	\$ (23,176)	(10.9)%
Senior living operations	151,839	146,102	5,737	3.9
Office operations	133,987	130,047	3,940	3.0
All other	19,019	33,488	(14,469)	(43.2)
Total segment NOI	495,164	523,132	(27,968)	(5.3)
Interest and other income	12,554	171	12,383	nm
Interest expense	(107,581)	(113,869)	6,288	5.5
Depreciation and amortization	(218,579)	(213,407)	(5,172)	(2.4)
General, administrative and professional fees	(39,677)	(33,317)	(6,360)	(19.1)
Loss on extinguishment of debt, net	(39,527)	(511)	(39,016)	nm
Merger-related expenses and deal costs	(4,458)	(804)	(3,654)	nm
Other	(1,244)	(13,030)	11,786	90.5
Income before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	96,652	148,365	(51,713)	(34.9)
(Loss) income from unconsolidated entities	(716)	750	(1,466)	nm
Income tax benefit	7,327	7,815	(488)	(6.2)
Income from continuing operations	103,263	156,930	(53,667)	(34.2)
Discontinued operations	—	(19)	19	nm
Gain on real estate dispositions	18	458,280	(458,262)	nm
Net income	103,281	615,191	(511,910)	(83.2)
Net income attributable to noncontrolling interests	1,309	1,233	(76)	(6.2)
Net income attributable to common stockholders	\$ 101,972	\$ 613,958	(511,986)	(83.4)
nm - not meaningful				

#### *Segment NOI—Triple-Net Leased Properties*

NOI for our triple-net leased properties reportable business segment equals the rental income and other services revenue earned from our triple-net assets. We incur no direct operating expenses for this segment.

The following table summarizes results of operations in our triple-net leased properties reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Three Months Ended September 30,		Decrease to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI—Triple-Net Leased Properties:</b>				
Rental income	\$ 190,117	\$ 212,370	\$ (22,253)	(10.5)%
Other services revenue	202	1,125	(923)	(82.0)
Segment NOI	<u>\$ 190,319</u>	<u>\$ 213,495</u>	<u>(23,176)</u>	<u>(10.9)</u>

The decrease in our triple-net leased properties rental income in the third quarter of 2018 over the same period in 2017 is attributable primarily to the sale of 36 Kindred SNF properties during 2017, the first quarter 2018 transition of 75 private pay seniors housing communities from triple-net leased properties to senior living operations and a decrease in management fees related to the July 2018 sale of our 25% interest in an unconsolidated real estate joint venture consisting principally of SNFs.

In our triple-net leased properties segment, our revenues generally consist of fixed rental amounts (subject to annual contractual escalations) received from our tenants in accordance with the applicable lease terms. However, occupancy rates may affect the profitability of our tenants' operations. The following table sets forth average continuing occupancy rates related to the triple-net leased properties we owned at September 30, 2018 for the second quarter of 2018 (which is the most recent information available to us from our tenants) and average continuing occupancy rates related to the triple-net leased properties we owned at September 30, 2017 for the second quarter of 2017.

	Number of Properties Owned at September 30, 2018	Average Occupancy for the Three Months Ended June 30, 2018	Number of Properties Owned at September 30, 2017	Average Occupancy for the Three Months Ended June 30, 2017
Seniors housing communities <sup>(1)</sup>	360	84.5%	437	85.8%
SNFs <sup>(1)</sup>	17	84.7	17	86.0
IRFs and LTACs <sup>(1)</sup>	36	56.7	38	58.8

- <sup>(1)</sup> Excludes properties included in discontinued operations and properties sold or classified as held for sale, non-stabilized properties, properties owned through investments in unconsolidated entities and certain properties for which we do not receive occupancy information. Also excludes properties acquired during the three months ended September 30, 2018 and 2017, respectively, and properties that transitioned operators for which we do not have five full quarters of results subsequent to the transition.

The following table compares results of operations for our 434 same-store triple-net leased properties, unadjusted for foreign currency movements between comparison periods. With regard to our triple-net leased properties segment, "same-store" refers to properties owned, consolidated, operational and reported under a consistent business model for the full period in both comparison periods, excluding assets sold or classified as held for sale as of September 30, 2018 and assets whose operations were classified as discontinued operations.

	For the Three Months Ended September 30,		Increase to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Same-Store Segment NOI—Triple-Net Leased Properties:</b>				
Rental income	\$ 187,157	\$ 180,553	\$ 6,604	3.7%
Segment NOI	<u>\$ 187,157</u>	<u>\$ 180,553</u>	<u>\$ 6,604</u>	<u>3.7</u>

**Segment NOI—Senior Living Operations**

The following table summarizes results of operations in our senior living operations reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Three Months Ended September 30,		Increase (Decrease) to Segment NOI																				
	2018	2017	\$	%																			
	(Dollars in thousands)																						
<b>Segment NOI—Senior Living Operations:</b>																							
Resident fees and services	\$ 518,560	\$ 461,700	\$ 56,860	12.3 %																			
Less: Property-level operating expenses	(366,721)	(315,598)	(51,123)	(16.2)																			
Segment NOI	<u>\$ 151,839</u>	<u>\$ 146,102</u>	5,737	3.9																			
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="text-align: center; width: 30%;">Number of Properties at September 30,</th> <th colspan="2" style="text-align: center;">Average Occupancy for the Three Months Ended September 30,</th> <th colspan="2" style="text-align: center;">Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,</th> </tr> <tr> <th style="text-align: center;">2018</th> <th style="text-align: center;">2017</th> <th style="text-align: center;">2018</th> <th style="text-align: center;">2017</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Total communities</td> <td style="text-align: center;">356</td> <td style="text-align: center;">293</td> <td style="text-align: center;">87.1%</td> <td style="text-align: center;">88.3%</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align: center;">\$ 5,632</td> <td style="text-align: center;">\$ 5,761</td> </tr> </tbody> </table>					Number of Properties at September 30,	Average Occupancy for the Three Months Ended September 30,		Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,		2018	2017	2018	2017	Total communities	356	293	87.1%	88.3%				\$ 5,632	\$ 5,761
Number of Properties at September 30,	Average Occupancy for the Three Months Ended September 30,		Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,																				
	2018	2017	2018	2017																			
Total communities	356	293	87.1%	88.3%																			
			\$ 5,632	\$ 5,761																			

Resident fees and services include all amounts earned from residents at our seniors housing communities, such as rental fees related to resident leases, extended health care fees and other ancillary service income. Property-level operating expenses related to our senior living operations segment include labor, food, utilities, marketing, management and other costs of operating the properties.

The increase in our senior living operations segment NOI in the third quarter of 2018 over the same period in 2017 is attributable primarily to the first quarter 2018 transition of 75 private pay seniors housing communities from triple-net leased properties to senior living operations.

The following table compares results of operations for our 277 same-store senior living operating communities, unadjusted for foreign currency movements between periods. With regard to our senior living operations segment, “same-store” refers to properties owned, consolidated, operational and reported under a consistent business model for the full period in both comparison periods, excluding properties that transitioned operators since the start of the prior comparison period, assets sold or classified as held for sale as of September 30, 2018 and assets whose operations were classified as discontinued operations.

	For the Three Months Ended September 30,		Increase (Decrease) to Segment NOI																				
	2018	2017	\$	%																			
	(Dollars in thousands)																						
<b>Same-Store Segment NOI—Senior Living Operations:</b>																							
Resident fees and services	\$ 446,686	\$ 444,217	\$ 2,469	0.6 %																			
Less: Property-level operating expenses	(309,023)	(302,778)	(6,245)	(2.1)																			
Segment NOI	<u>\$ 137,663</u>	<u>\$ 141,439</u>	(3,776)	(2.7)																			
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="text-align: center; width: 30%;">Number of Properties at September 30,</th> <th colspan="2" style="text-align: center;">Average Occupancy for the Three Months Ended September 30,</th> <th colspan="2" style="text-align: center;">Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,</th> </tr> <tr> <th style="text-align: center;">2018</th> <th style="text-align: center;">2017</th> <th style="text-align: center;">2018</th> <th style="text-align: center;">2017</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Same-store communities</td> <td style="text-align: center;">277</td> <td style="text-align: center;">277</td> <td style="text-align: center;">87.8%</td> <td style="text-align: center;">88.5%</td> </tr> <tr> <td></td> <td></td> <td></td> <td style="text-align: center;">\$ 5,884</td> <td style="text-align: center;">\$ 5,807</td> </tr> </tbody> </table>					Number of Properties at September 30,	Average Occupancy for the Three Months Ended September 30,		Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,		2018	2017	2018	2017	Same-store communities	277	277	87.8%	88.5%				\$ 5,884	\$ 5,807
Number of Properties at September 30,	Average Occupancy for the Three Months Ended September 30,		Average Monthly Revenue Per Occupied Room For the Three Months Ended September 30,																				
	2018	2017	2018	2017																			
Same-store communities	277	277	87.8%	88.5%																			
			\$ 5,884	\$ 5,807																			

**Segment NOI—Office Operations**

The following table summarizes results of operations in our office operations reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Three Months Ended September 30,		Increase (Decrease) to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI—Office Operations:</b>				
Rental income	\$ 193,911	\$ 189,506	\$ 4,405	2.3 %
Office building services revenue	2,175	1,568	607	38.7
Total revenues	196,086	191,074	5,012	2.6
Less:				
Property-level operating expenses	(61,668)	(60,609)	(1,059)	(1.7)
Office building services costs	(431)	(418)	(13)	(3.1)
Segment NOI	<u>\$ 133,987</u>	<u>\$ 130,047</u>	3,940	3.0
Number of Properties at September 30,		Occupancy at September 30,		Annualized Average Rent Per Occupied Square Foot for the Three Months Ended September 30,
2018	2017	2018	2017	
Total office buildings	385	389	89.8%	91.6%

The following table compares results of operations for our 358 same-store office buildings. With regard to our office operations segment, “same-store” refers to properties owned, consolidated, operational and reported under a consistent business model for the full period in both comparison periods, excluding assets sold or classified as held for sale as of September 30, 2018, assets whose operations were classified as discontinued operations and redevelopment assets.

	For the Three Months Ended September 30,		Increase (Decrease) to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Same-Store Segment NOI—Office Operations:</b>				
Rental income	\$ 171,912	\$ 169,299	\$ 2,613	1.5 %
Less: Property-level operating expenses	(53,638)	(52,565)	(1,073)	(2.0)
Segment NOI	<u>\$ 118,274</u>	<u>\$ 116,734</u>	1,540	1.3
Number of Properties at September 30,		Occupancy at September 30,		Annualized Average Rent Per Occupied Square Foot for the Three Months Ended September 30,
2018	2017	2018	2017	
Same-store office buildings	358	358	92.3%	92.8%

*All Other*

Information provided for all other segment NOI includes income from loans and investments and other miscellaneous income not directly attributable to any of our three reportable business segments. The \$14.5 million decrease in income from loans and investments for the three months ended September 30, 2018 over the same period in 2017 is primarily due to reduced interest related to the \$700.0 million term loan that we made to Ardent in March 2017, which was fully repaid in June 2018.

*Interest and Other Income*

The \$12.4 million increase in interest and other income for the three months ended September 30, 2018 over the same period in 2017 is primarily due to a \$12.3 million fee received in connection with certain July 2018 Kindred transactions. See “NOTE 3-CONCENTRATION OF CREDIT RISK” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

*Interest Expense*

The \$6.3 million decrease in total interest expense for the three months ended September 30, 2018 compared to the same period in 2017 is attributable primarily to a decrease of \$13.1 million due to lower debt balances, partially offset by an increase of \$6.8 million due to a higher effective interest rate, including the amortization of any fair value adjustments. Our effective interest rate was 4.0% and 3.8% for the three months ended September 30, 2018 and 2017, respectively.

*Depreciation and Amortization*

Depreciation and amortization expense related to continuing operations increased \$5.2 million during the three months ended September 30, 2018 compared to the same period in 2017 primarily due to asset acquisitions, net of dispositions.

*Loss on Extinguishment of Debt, Net*

Loss on extinguishment of debt, net for the three months ended September 30, 2018 was due primarily to the redemption and repayment of \$700 million aggregate principal amount then outstanding of our 4.75% senior notes due 2021 in the third quarter of 2018.

*Other*

The \$11.8 million decrease in other expense during the three months ended September 30, 2018 compared to the same period in 2017 is primarily due to 2017 expenses and impairments related to natural disasters.

*Gain on Real Estate Dispositions*

The gain on real estate dispositions for the three months ended September 30, 2018 decreased \$458.3 million over the same period in 2017 due primarily to the sale of 22 triple-net leased properties in August 2017.

**Nine Months Ended September 30, 2018 and 2017**

The table below shows our results of operations for the nine months ended September 30, 2018 and 2017 and the effect of changes in those results from period to period on our net income attributable to common stockholders.

	For the Nine Months Ended September 30,		(Decrease) Increase to Net Income	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI:</b>				
Triple-net leased properties	\$ 551,150	\$ 638,410	\$ (87,260)	(13.7)%
Senior living operations	472,249	449,835	22,414	5.0
Office operations	402,514	390,552	11,962	3.1
All other	108,304	86,478	21,826	25.2
Total segment NOI	1,534,217	1,565,275	(31,058)	(2.0)
Interest and other income	24,535	854	23,681	nm
Interest expense	(331,973)	(336,245)	4,272	1.3
Depreciation and amortization	(675,363)	(655,298)	(20,065)	(3.1)
General, administrative and professional fees	(113,507)	(100,560)	(12,947)	(12.9)
Loss on extinguishment of debt, net	(50,411)	(856)	(49,555)	nm
Merger-related expenses and deal costs	(26,288)	(8,903)	(17,385)	nm
Other	(7,891)	(16,066)	8,175	50.9
Income before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	353,319	448,201	(94,882)	(21.2)
(Loss) income from unconsolidated entities	(47,826)	3,794	(51,620)	nm
Income tax benefit	11,303	13,119	(1,816)	(13.8)
Income from continuing operations	316,796	465,114	(148,318)	(31.9)
Discontinued operations	(10)	(95)	85	89.5
Gain on real estate dispositions	35,893	502,288	(466,395)	(92.9)
Net income	352,679	967,307	(614,628)	(63.5)
Net income attributable to noncontrolling interests	5,485	3,391	(2,094)	(61.8)
Net income attributable to common stockholders	<u>\$ 347,194</u>	<u>\$ 963,916</u>	<u>(616,722)</u>	<u>(64.0)</u>
nm - not meaningful				

*Segment NOI—Triple-Net Leased Properties*

The following table summarizes results of operations in our triple-net leased properties reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Nine Months Ended September 30,		Decrease to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI—Triple-Net Leased Properties:</b>				
Rental income	\$ 548,628	\$ 634,955	\$ (86,327)	(13.6)%
Other services revenue	2,522	3,455	(933)	(27.0)
Segment NOI	<u>\$ 551,150</u>	<u>\$ 638,410</u>	<u>(87,260)</u>	<u>(13.7)</u>

The decrease in our triple-net leased properties rental income for the nine months ended September 30, 2018 over the same period in 2017 is attributable primarily to the sale of 36 Kindred SNF properties during 2017, the first quarter 2018 transition of 75 private pay seniors housing communities from triple-net leased properties to senior living operations, the second quarter 2018 non-cash expense of \$21.3 million related to the new Brookdale lease agreements and a decrease in

management fees related to the July 2018 sale of our 25% interest in an unconsolidated real estate joint venture consisting principally of SNFs.

The following table compares results of operations for our 415 same-store triple-net leased properties, unadjusted for foreign currency movements between comparison periods. With regard to our triple-net leased properties segment, “same-store” refers to properties that we owned for the full period in both comparison periods, excluding assets sold or classified as held for sale as of September 30, 2018 and assets whose operations were classified as discontinued operations.

	For the Nine Months Ended September 30,		Decrease to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Same-Store Segment NOI—Triple-Net Leased Properties:</b>				
Rental income	\$ 516,576	\$ 519,220	\$ (2,644)	(0.5)%
Segment NOI	<u>\$ 516,576</u>	<u>\$ 519,220</u>	<u>(2,644)</u>	<u>(0.5)</u>

The decrease in our same-store triple-net leased properties rental income for the nine months ended September 30, 2018 over the same period in 2017 is attributable primarily to the second quarter 2018 non-cash expense of \$21.3 million related to the new Brookdale lease agreements, partially offset by contractual escalations in rent pursuant to the terms of our leases and increases in base and other rent under certain of our leases.

#### *Segment NOI—Senior Living Operations*

The following table summarizes results of operations in our senior living operations reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Nine Months Ended September 30,		Increase (Decrease) to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI—Senior Living Operations:</b>				
Resident fees and services	\$ 1,552,302	\$ 1,386,131	\$ 166,171	12.0 %
Less: Property-level operating expenses	<u>(1,080,053)</u>	<u>(936,296)</u>	<u>(143,757)</u>	<u>(15.4)</u>
Segment NOI	<u>\$ 472,249</u>	<u>\$ 449,835</u>	<u>22,414</u>	<u>5.0</u>

	Number of Properties at September 30,	Average Unit Occupancy For the Nine Months Ended September 30,		Average Monthly Revenue Per Occupied Room For the Nine Months Ended September 30,		
		2018	2017	2018	2017	
	2018	2017	2018	2017	2018	
Total communities	356	293	86.7%	88.2%	\$ 5,666	\$ 5,722

The increase in our senior living operations segment NOI during the nine months ended September 30, 2018 over the same period in 2017 is attributable primarily to the first quarter 2018 transition of 75 private pay seniors housing communities from triple-net leased properties to senior living operations.

The following table compares results of operations for our 277 same-store senior living operating communities, unadjusted for foreign currency movements between periods. With regard to our senior living operations segment, “same-store” refers to properties owned, consolidated, operational and reported under a consistent business model for the full period in both comparison periods, excluding properties that transitioned operators since the start of the prior comparison period, assets sold or classified as held for sale as of September 30, 2018 and assets whose operations were classified as discontinued operations.

	For the Nine Months Ended September 30,		Increase (Decrease) to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Same-Store Segment NOI—Senior Living Operations:</b>				
Resident fees and services	\$ 1,339,331	\$ 1,326,672	\$ 12,659	1.0 %
Less: Property-level operating expenses	(911,600)	(893,401)	(18,199)	(2.0)
Segment NOI	<u>\$ 427,731</u>	<u>\$ 433,271</u>	(5,540)	(1.3)
Number of Properties at September 30,		Average Unit Occupancy For the Nine Months Ended September 30,	Average Monthly Revenue Per Occupied Room For the Nine Months Ended September 30,	
2018	2017	2018	2017	2018
Same-store communities	277	277	87.3%	\$ 5,915
				\$ 5,780

#### *Segment NOI—Office Operations*

The following table summarizes results of operations in our office operations reportable business segment, including assets sold or classified as held for sale as of September 30, 2018, but excluding assets whose operations were classified as discontinued operations.

	For the Nine Months Ended September 30,		Increase (Decrease) to Segment NOI	
	2018	2017	\$	%
	(Dollars in thousands)			
<b>Segment NOI—Office Operations:</b>				
Rental income	\$ 580,471	\$ 561,641	\$ 18,830	3.4 %
Office building services revenue	5,785	5,347	438	8.2
Total revenues	586,256	566,988	19,268	3.4
Less:				
Property-level operating expenses	(182,662)	(174,728)	(7,934)	(4.5)
Office building services costs	(1,080)	(1,708)	628	36.8
Segment NOI	<u>\$ 402,514</u>	<u>\$ 390,552</u>	11,962	3.1
Number of Properties at September 30,		Occupancy at September 30,	Annualized Average Rent Per Occupied Square Foot For the Nine Months Ended September 30,	
2018	2017	2018	2017	2018
Total office buildings	385	389	89.8%	\$ 32
				\$ 32

The following table compares results of operations for our 357 same-store office buildings. With regard to our office operations segment, “same-store” refers to properties owned, consolidated, operational and reported under a consistent business model for the full period in both comparison periods, excluding assets sold or classified as held for sale as of September 30, 2018, assets whose operations were classified as discontinued operations and redevelopment assets.

	For the Nine Months Ended September 30,				Increase (Decrease) to Segment NOI	
	2018	2017	\$	%		
	(Dollars in thousands)					
<b>Same-Store Segment NOI—Office Operations:</b>						
Rental income	\$ 502,921	\$ 498,560	\$ 4,361	0.9 %		
Less: Property-level operating expenses	(154,643)	(151,492)	(3,151)	(2.1)		
Segment NOI	<u>\$ 348,278</u>	<u>\$ 347,068</u>	1,210	0.3		
	Number of Properties at September 30,		Occupancy September 30,		Annualized Average Rent Per Occupied Square Foot For the Nine Months Ended September 30,	
	2018	2017	2018	2017	2018	2017
Same-store office buildings	357	357	92.2%	92.8%	\$ 32	\$ 31

#### *All Other*

The \$21.8 million increase in income from loans and investments for the nine months ended September 30, 2018 over the same period in 2017 is primarily due to the second quarter 2018 income from the full repayment of the \$700.0 million term loan that we made to Ardent in March 2017.

#### *Interest and Other Income*

The \$23.7 million increase in interest and other income for the nine months ended September 30, 2018 over the same period in 2017 is primarily due to a payment received that was not previously expected to be collected and the \$12.3 million fee received in connection with certain July 2018 Kindred transactions. See “NOTE 3—CONCENTRATION OF CREDIT RISK” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

#### *Interest Expense*

The \$4.3 million decrease in total interest expense for the nine months ended September 30, 2018 and 2017 is attributable primarily to a decrease of \$21.9 million due to lower debt balances, partially offset by an increase of \$17.6 million due to a higher effective interest rate, including the amortization of any fair value adjustments. Our effective interest rate was 3.9% and 3.7% for the nine months ended September 30, 2018 and 2017, respectively.

#### *Depreciation and Amortization*

Depreciation and amortization expense related to continuing operations increased during the nine months ended September 30, 2018 compared to the same period in 2017, primarily due to asset acquisitions, net of dispositions, and carrying value adjustments on five MOBs reclassified from held for sale to continuing operations during the first quarter of 2018.

#### *Loss on Extinguishment of Debt, Net*

Loss on extinguishment of debt, net for the nine months ended September 30, 2018 was due primarily to the redemption and repayment of the \$600.0 million aggregate principal amount then outstanding of our 4.00% senior notes due April 2019 in the first quarter of 2018 and the redemption and repayment of \$700 million aggregate principal amount then outstanding of our 4.75% senior notes due 2021 in the third quarter of 2018.

#### *Merger-Related Expenses and Deal Costs*

The \$17.4 million increase in merger-related expenses and deal costs for the nine months ended September 30, 2018 over the same period in 2017 was due primarily to costs associated with the transition of the management of 76 private pay seniors housing communities to ESL during the first quarter of 2018.

#### *Other*

The \$8.2 million decrease in other expense for the nine months ended September 30, 2018 over the same period in 2017 is primarily due to 2017 expenses and impairments related to natural disasters, partially offset by increased foreign currency exchange losses.

#### *(Loss) Income from Unconsolidated Entities*

The \$51.6 million decrease in income from unconsolidated entities for the nine months ended September 30, 2018 over the same period in 2017 is due to our share of Ardent's losses on the extinguishment of debt resulting from its debt refinancing and a \$35.7 million impairment relating to the carrying costs of one of our equity investments in an unconsolidated real estate joint venture consisting principally of SNF's. In July 2018, we sold our 25% interest to our joint venture partner and received \$57.5 million at closing.

#### *Gain on Real Estate Dispositions*

The \$466.4 million decrease in gain on real estate dispositions to \$35.9 million for the nine months ended September 30, 2018 over the same period in 2017 is due primarily to the sale of 22 triple-net leased properties in August 2017.

#### *Net Income Attributable to Noncontrolling Interests*

The increase in net income attributable to noncontrolling interests of \$2.1 million for the nine months ended September 30, 2018 over the same period in 2017 is primarily due to a gain on the disposition of a property held within a joint venture.

#### **Non-GAAP Financial Measures**

We consider certain non-GAAP financial measures to be useful supplemental measures of our operating performance. A non-GAAP financial measure is a measure of historical or future financial performance, financial position or cash flows that excludes or includes amounts that are not so excluded from or included in the most directly comparable measure calculated and presented in accordance with GAAP. Described below are the non-GAAP financial measures used by management to evaluate our operating performance and that we consider most useful to investors, together with reconciliations of these measures to the most directly comparable GAAP measures.

The non-GAAP financial measures we present in this Quarterly Report on Form 10-Q may not be comparable to those presented by other real estate companies due to the fact that not all real estate companies use the same definitions. You should not consider these measures as alternatives to net income or income from continuing operations (both determined in accordance with GAAP) as indicators of our financial performance or as alternatives to cash flow from operating activities (determined in accordance with GAAP) as measures of our liquidity, nor are these measures necessarily indicative of sufficient cash flow to fund all of our needs. In order to facilitate a clear understanding of our consolidated historical operating results, you should examine these measures in conjunction with net income and income from continuing operations as presented in our Consolidated Financial Statements and other financial data included elsewhere in this Quarterly Report on Form 10-Q.

#### **Funds From Operations and Normalized Funds From Operations**

Historical cost accounting for real estate assets implicitly assumes that the value of real estate assets diminishes predictably over time. However, since real estate values historically have risen or fallen with market conditions, many industry investors deem presentations of operating results for real estate companies that use historical cost accounting to be insufficient by themselves. For that reason, we consider Funds From Operations ("FFO") and normalized FFO to be appropriate supplemental measures of operating performance of an equity REIT. In particular, we believe that normalized FFO is useful because it allows investors, analysts and our management to compare our operating performance to the operating performance of other real estate companies and between periods on a consistent basis without having to account for differences caused by non-recurring items and other non-operational events such as transactions and litigation. In some cases, we provide information about identified non-cash components of FFO and normalized FFO because it allows investors, analysts and our management to assess the impact of those items on our financial results.

We use the National Association of Real Estate Investment Trusts ("NAREIT") definition of FFO. NAREIT defines FFO as net income attributable to common stockholders (computed in accordance with GAAP), excluding gains or losses from sales of real estate property, including gains or losses on re-measurement of equity method investments, and impairment write-downs of depreciable real estate, plus real estate depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. Adjustments for unconsolidated partnerships and joint ventures will be calculated to reflect

FFO on the same basis. We define normalized FFO as FFO excluding the following income and expense items (which may be recurring in nature): (a) merger-related costs and expenses, including amortization of intangibles, transition and integration expenses, and deal costs and expenses, including expenses and recoveries relating to acquisition lawsuits; (b) the impact of any expenses related to asset impairment and valuation allowances, the write-off of unamortized deferred financing fees, or additional costs, expenses, discounts, make-whole payments, penalties or premiums incurred as a result of early retirement or payment of our debt; (c) the non-cash effect of income tax benefits or expenses, the non-cash impact of changes to our executive equity compensation plan, derivative transactions that have non-cash mark-to-market impacts on our Consolidated Statements of Income and non-cash charges related to lease terminations; (d) the financial impact of contingent consideration, severance-related costs and charitable donations made to the Ventas Charitable Foundation; (e) gains and losses for non-operational foreign currency hedge agreements and changes in the fair value of financial instruments; (f) gains and losses on non-real estate dispositions and other unusual items related to unconsolidated entities; (g) expenses related to the re-audit and re-review in 2014 of our historical financial statements and related matters; and (h) net expenses or recoveries related to natural disasters. We believe that income from continuing operations is the most comparable GAAP measure because it provides insight into our continuing operations.

The following table summarizes our FFO and normalized FFO for the three and nine months ended September 30, 2018 and 2017. The decrease in normalized FFO for the nine months ended September 30, 2018 over the same period in 2017 is due primarily to asset dispositions, partially offset by improved property performance, income related to the second quarter 2018 full repayment of the \$700.0 million term loan that we made to Ardent in March 2017 and the \$12.3 million fee received in connection with certain July 2018 Kindred transactions. See “NOTE 3-CONCENTRATION OF CREDIT RISK” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands)			
Income from continuing operations	\$ 103,263	\$ 156,930	\$ 316,796	\$ 465,114
Discontinued operations	—	(19)	(10)	(95)
Gain on real estate dispositions	18	458,280	35,893	502,288
Net income	103,281	615,191	352,679	967,307
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Net income attributable to common stockholders	101,972	613,958	347,194	963,916
Adjustments:				
Real estate depreciation and amortization	217,116	211,784	670,703	650,092
Real estate depreciation related to noncontrolling interests	(1,718)	(1,911)	(5,305)	(5,723)
Real estate depreciation related to unconsolidated entities	723	855	2,055	3,500
Impairment on equity method investments	—	—	35,708	—
Gain on real estate dispositions related to unconsolidated entities	(875)	(986)	(875)	(1,045)
Gain on re-measurement of equity interest upon acquisition, net	—	—	—	(3,027)
Gain on real estate dispositions related to noncontrolling interests	—	18	1,508	18
Gain on real estate dispositions	(18)	(458,280)	(35,893)	(502,288)
FFO attributable to common stockholders	317,200	365,438	1,015,095	1,105,443
Adjustments:				
Change in fair value of financial instruments	42	8	(4)	(122)
Non-cash income tax benefit	(8,166)	(8,515)	(13,483)	(15,619)
Loss on extinguishment of debt, net	39,489	486	55,183	936
Gain on non-real estate dispositions related to unconsolidated entities	(16)	(22)	(12)	(34)
Merger-related expenses, deal costs and re-audit costs	4,985	2,741	31,770	12,906
Amortization of other intangibles	121	328	639	1,131
Other items related to unconsolidated entities	632	1,207	4,357	1,699
Non-cash impact of changes to equity plan	448	1,372	3,321	4,082
Non-cash charges related to lease terminations	—	—	21,299	—
Natural disaster expenses (recoveries), net	93	9,810	(211)	9,810
Normalized FFO attributable to common stockholders	\$ 354,828	\$ 372,853	\$ 1,117,954	\$ 1,120,232

#### **Adjusted EBITDA**

We consider Adjusted EBITDA an important supplemental measure because it provides another manner in which to evaluate our operating performance and serves as another indicator of our credit strength and our ability to service our debt obligations. We define Adjusted EBITDA as consolidated earnings, which includes amounts in discontinued operations, before interest, taxes, depreciation and amortization (including non-cash stock-based compensation expense), excluding gains or losses on extinguishment of debt, our consolidated joint venture partners' share of EBITDA, merger-related expenses and deal costs, expenses related to the re-audit and re-review in 2014 of our historical financial statements, net gains or losses on real estate activity, gains or losses on re-measurement of equity interest upon acquisition, changes in the fair value of financial instruments, unrealized foreign currency gains or losses, net expenses or recoveries related to natural disasters and non-cash charges related to lease terminations, and including our share of EBITDA from unconsolidated entities and adjustments for other immaterial or identified items. The following table sets forth a reconciliation of income from continuing operations to Adjusted EBITDA for the three and nine months ended September 30, 2018 and 2017:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
	(In thousands)			
Income from continuing operations	\$ 103,263	\$ 156,930	\$ 316,796	\$ 465,114
Discontinued operations	—	(19)	(10)	(95)
Gain on real estate dispositions	18	458,280	35,893	502,288
Net income	103,281	615,191	352,679	967,307
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Net income attributable to common stockholders	101,972	613,958	347,194	963,916
Adjustments:				
Interest	107,581	113,869	331,973	336,245
Loss on extinguishment of debt, net	39,527	511	50,411	856
Taxes (including tax amounts in general, administrative and professional fees)	(6,379)	(8,130)	(8,588)	(11,629)
Depreciation and amortization	218,579	213,407	675,363	655,298
Non-cash stock-based compensation expense	6,488	6,527	20,761	19,923
Merger-related expenses, deal costs and re-audit costs	4,317	2,092	29,286	11,001
Net income attributable to noncontrolling interests, net of consolidated joint venture partners' share of EBITDA	(2,861)	(3,278)	(7,460)	(9,788)
Loss (income) from unconsolidated entities, net of Ventas share of EBITDA from unconsolidated entities	8,465	6,660	67,968	20,797
Gain on real estate dispositions	(18)	(458,280)	(35,893)	(502,288)
Unrealized foreign currency (gains) losses	(225)	210	487	(899)
Change in fair value of financial instruments	38	6	(26)	(142)
Gain on re-measurement of equity interest upon acquisition, net	—	—	—	(3,027)
Non-cash charges related to lease terminations	—	—	21,299	—
Natural disaster expenses (recoveries), net	93	9,810	(211)	9,810
Adjusted EBITDA	<u>\$ 477,577</u>	<u>\$ 497,362</u>	<u>\$ 1,492,564</u>	<u>\$ 1,490,073</u>

## NOI

We also consider NOI an important supplemental measure because it allows investors, analysts and our management to assess our unlevered property-level operating results and to compare our operating results with those of other real estate companies and between periods on a consistent basis. We define NOI as total revenues, less interest and other income, property-level operating expenses and office building services costs. Cash receipts may differ due to straight-line recognition of certain rental income and the application of other GAAP policies. The following table sets forth a reconciliation of income from continuing operations to NOI for the three and nine months ended September 30, 2018 and 2017:

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018		2017	
	(In thousands)			
Income from continuing operations	\$ 103,263	\$ 156,930	\$ 316,796	\$ 465,114
Discontinued operations	—	(19)	(10)	(95)
Gain on real estate dispositions	18	458,280	35,893	502,288
Net income	103,281	615,191	352,679	967,307
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Net income attributable to common stockholders	101,972	613,958	347,194	963,916
Adjustments:				
Interest and other income	(12,554)	(171)	(24,535)	(854)
Interest	107,581	113,869	331,973	336,245
Depreciation and amortization	218,579	213,407	675,363	655,298
General, administrative and professional fees	39,677	33,317	113,507	100,560
Loss on extinguishment of debt, net	39,527	511	50,411	856
Merger-related expenses and deal costs	4,458	823	26,298	8,998
Other	1,244	13,030	7,891	16,066
Net income attributable to noncontrolling interests	1,309	1,233	5,485	3,391
Loss (income) from unconsolidated entities	716	(750)	47,826	(3,794)
Income tax benefit	(7,327)	(7,815)	(11,303)	(13,119)
Gain on real estate dispositions	(18)	(458,280)	(35,893)	(502,288)
NOI	\$ 495,164	\$ 523,132	\$ 1,534,217	\$ 1,565,275

## Liquidity and Capital Resources

As of September 30, 2018, we had a total of \$86.1 million of unrestricted cash and cash equivalents, operating cash and cash related to our senior living operations and office operations reportable business segments that is deposited and held in property-level accounts. Funds maintained in the property-level accounts are used primarily for the payment of property-level expenses, debt service payments and certain capital expenditures. As of September 30, 2018, we also had escrow deposits and restricted cash of \$62.4 million, \$2.5 billion of unused borrowing capacity available under our unsecured revolving credit facility and \$336.2 million of unused borrowing capacity available under our secured revolving construction credit facility.

During the nine months ended September 30, 2018, our principal sources of liquidity were cash flows from operations, proceeds from the issuance of debt securities, borrowings under our unsecured revolving credit facility, proceeds from asset sales and cash on hand.

For the next 12 months, our principal liquidity needs are to: (i) fund operating expenses; (ii) meet our debt service requirements; (iii) repay maturing mortgage and other debt; (iv) fund capital expenditures; (v) fund acquisitions, investments and commitments, including development and redevelopment activities; and (vi) make distributions to our stockholders and unitholders, as required for us to continue to qualify as a REIT. We expect that these liquidity needs generally will be satisfied by a combination of the following: cash flows from operations, cash on hand, debt assumptions and financings (including secured financings), issuances of debt and equity securities, dispositions of assets (in whole or in part through joint venture arrangements with third parties) and borrowings under our revolving credit facilities. However, an inability to access liquidity through multiple capital sources concurrently could have a Material Adverse Effect on us.

### **Credit Facilities and Unsecured Term Loans**

Our unsecured credit facility is comprised of a \$3.0 billion unsecured revolving credit facility, priced at LIBOR plus 0.875% as of September 30, 2018. The unsecured revolving credit facility matures in 2021, but may be extended at our option subject to the satisfaction of certain conditions for two additional periods of six months each. The unsecured revolving credit facility also includes an accordion feature that permits us to increase our aggregate borrowing capacity thereunder to up to \$3.75 billion.

As of September 30, 2018, we had \$514.4 million of borrowings outstanding, \$22.7 million of letters of credit outstanding and \$2.5 billion of unused borrowing capacity available under our unsecured revolving credit facility.

In July 2018, we entered into a new \$900.0 million unsecured term loan facility priced at LIBOR plus 0.90%. The new term loan facility is comprised of a \$300.0 million term loan that matures in 2023 and a \$600.0 million term loan that matures in 2024. The new term loan facility also includes an accordion feature that permits us to increase our aggregate borrowings thereunder to up to \$1.5 billion. This unsecured term loan facility replaced and repaid in full our \$900.0 million unsecured term loan due 2020 priced at LIBOR plus 0.975%.

As of September 30, 2018, we also had a \$400.0 million secured revolving construction credit facility with \$63.8 million of borrowings outstanding and \$336.2 million of unused borrowing capacity. The secured revolving construction credit facility matures in 2022 and is primarily used to finance life science and innovation center and other construction projects.

### **Senior Notes**

In February 2018, Ventas Realty issued and sold \$650.0 million aggregate principal amount of 4.00% senior notes due 2028 at a public offering price equal to 99.23% of par, for total proceeds of \$645.0 million before the underwriting discount and expenses.

In February 2018, we redeemed \$502.1 million aggregate principal amount then outstanding of our 4.00% senior notes due April 2019 at a public offering price of 101.83% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$11.0 million. The redemption was funded using cash on hand and borrowings under our unsecured revolving credit facility. In April 2018, we repaid the remaining balance then outstanding of our 4.00% senior notes due April 2019 of \$97.9 million and recognized a loss on extinguishment of debt of \$1.8 million.

In February 2018, we repaid in full, at par, \$700.0 million aggregate principal amount then outstanding of our 2.00% senior notes due 2018 upon maturity.

In August 2018, Ventas Realty issued and sold \$750.0 million aggregate principal amount of 4.40% senior notes due 2029 at a public offering price equal to 99.95% of par, for total proceeds of \$749.7 million before the underwriting discount and expenses.

In August 2018, we redeemed \$549.5 million aggregate principal amount then outstanding of our 4.75% senior notes due 2021 at a public offering price of 104.56% of par, plus accrued and unpaid interest to the redemption date, and recognized a loss on extinguishment of debt of \$28.3 million. The redemption was funded using proceeds from our August 2018 senior note issuance, cash on hand and borrowings under our unsecured revolving credit facility. In September 2018, we repaid the remaining balance then outstanding of our 4.75% senior notes due 2021 of \$150.5 million and recognized a loss on extinguishment of debt of \$7.6 million.

### **Mortgages**

During the nine months ended September 30, 2018 and 2017, we repaid in full mortgage loans outstanding in the aggregate principal amounts of \$324.6 million and \$307.5 million, respectively.

## Cash Flows

The following table sets forth our sources and uses of cash flows for the nine months ended September 30, 2018 and 2017:

	For the Nine Months Ended September 30,		(Decrease) Increase to Cash	
	2018	2017	\$	%
	(Dollars in thousands)			
Cash, cash equivalents and restricted cash at beginning of period	\$ 188,253	\$ 367,354	\$ (179,101)	(48.8)%
Net cash provided by operating activities	1,017,622	1,082,225	(64,603)	(6.0)
Net cash provided by (used in) investing activities	664,945	(710,410)	1,375,355	nm
Net cash used in financing activities	(1,721,820)	(578,254)	(1,143,566)	nm
Effect of foreign currency translation	(453)	670	(1,123)	nm
Cash, cash equivalents and restricted cash at end of period	<u>\$ 148,547</u>	<u>\$ 161,585</u>	(13,038)	(8.1)
nm - not meaningful				

### *Cash Flows from Operating Activities*

Cash flows from operating activities decreased \$64.6 million during the nine months ended September 30, 2018 over the same period in 2017 due primarily to 2017 asset dispositions and 2018 transaction costs related to operator transitions, partially offset by the second quarter 2018 income related to the full repayment of the \$700.0 million term loan that we made to Ardent in March 2017 and a \$12.3 million fee received in the third quarter of 2018 in connection with certain July 2018 Kindred transactions. See “NOTE 3-CONSENTRATION OF CREDIT RISK” of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

### *Cash Flows from Investing Activities*

Cash used in investing activities decreased \$1.4 billion during the nine months ended September 30, 2018 over the same period in 2017 primarily due to decreased investment in real estate property and loans receivable during 2018 and the second quarter 2018 full repayment of the \$700.0 million term loan that we made to Ardent in March 2017, partially offset by decreased proceeds from real estate disposals principally due to the 2017 sale of 36 SNFs owned by us and operated by Kindred.

### *Cash Flows from Financing Activities*

Cash flows used in financing activities increased \$1.1 billion during the nine months ended September 30, 2018 over the same period in 2017 primarily due to higher debt repayments during 2018.

### *Capital Expenditures*

The terms of our triple-net leases generally obligate our tenants to pay all capital expenditures necessary to maintain and improve our triple-net leased properties. However, from time to time, we may fund the capital expenditures for our triple-net leased properties through loans or advances to the tenants, which may increase the amount of rent payable with respect to the properties in certain cases. We may also fund capital expenditures for which we may become responsible upon expiration of our triple-net leases or in the event that our tenants are unable or unwilling to meet their obligations under those leases. We also expect to fund capital expenditures related to our senior living operations and office operations reportable business segments with the cash flows from the properties or through additional borrowings. We expect that these liquidity needs generally will be satisfied by a combination of the following: cash flows from operations, cash on hand, debt assumptions and financings (including secured financings), issuances of debt and equity securities, dispositions of assets (in whole or in part through joint venture arrangements with third parties) and borrowings under our revolving credit facilities.

To the extent that unanticipated capital expenditure needs arise or significant borrowings are required, our liquidity may be affected adversely. Our ability to borrow additional funds may be restricted in certain circumstances by the terms of the instruments governing our outstanding indebtedness.

We are party to certain agreements that obligate us to develop seniors housing or healthcare properties funded through capital that we and, in certain circumstances, our joint venture partners provide. As of September 30, 2018, we had 16 properties under development pursuant to these agreements, including five properties that are owned by unconsolidated real estate entities. In addition, from time to time, we engage in redevelopment projects with respect to our existing seniors housing communities to maximize the value, increase NOI, maintain a market-competitive position, achieve property stabilization or change the primary use of the property.

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

The following discussion of our exposure to various market risks contains forward-looking statements that involve risks and uncertainties. These projected results have been prepared utilizing certain assumptions considered reasonable in light of information currently available to us. Nevertheless, because of the inherent unpredictability of interest rates and other factors, actual results could differ materially from those projected in such forward-looking information.

We are exposed to market risk related to changes in interest rates with respect to borrowings under our unsecured revolving credit facility and our unsecured term loan, certain of our mortgage loans that are floating rate obligations, mortgage loans receivable that bear interest at floating rates and marketable debt securities. These market risks result primarily from changes in LIBOR rates or prime rates. To manage these risks, we continuously monitor our level of floating rate debt with respect to total debt and other factors, including our assessment of current and future economic conditions.

As of September 30, 2018 and December 31, 2017, the fair value of our secured and non-mortgage loans receivable, based on our estimates of currently prevailing rates for comparable loans, was \$502.6 million and \$1.3 billion, respectively.

The fair value of our fixed and variable rate debt is based on current interest rates at which we could obtain similar borrowings. For fixed rate debt, interest rate fluctuations generally affect the fair value, but not our earnings or cash flows. Therefore, interest rate risk does not have a significant impact on our fixed rate debt obligations until their maturity or earlier prepayment and refinancing. If interest rates have risen at the time we seek to refinance our fixed rate debt, whether at maturity or otherwise, our future earnings and cash flows could be adversely affected by additional borrowing costs. Conversely, lower interest rates at the time of refinancing may reduce our overall borrowing costs.

To highlight the sensitivity of our fixed rate debt to changes in interest rates, the following summary shows the effects of a hypothetical instantaneous change of 100 basis points in interest rates as of September 30, 2018 and December 31, 2017.

	<b>As of September 30, 2018</b>	<b>As of December 31, 2017</b>
	(In thousands)	
Gross book value	\$ 8,976,089	\$ 9,428,886
Fair value <sup>(1)</sup>	8,822,321	9,640,893
Fair value reflecting change in interest rates <sup>(1)</sup> :		
-100 basis points	9,345,845	10,148,313
+100 basis points	8,350,437	9,184,409

<sup>(1)</sup> The change in fair value of our fixed rate debt from December 31, 2017 to September 30, 2018 was due primarily to 2018 senior note and mortgage repayments, partially offset by 2018 senior note issuances.

The table below sets forth certain information with respect to our debt, excluding premiums and discounts.

	As of September 30, 2018	As of December 31, 2017	As of September 30, 2017			
	(Dollars in thousands)					
<b>Balance:</b>						
Fixed rate:						
Senior notes	\$ 7,794,542	\$ 8,218,369	\$ 8,226,610			
Unsecured term loans	400,000	200,000	200,000			
Mortgage loans and other <sup>(1)</sup>	781,547	1,010,517	1,158,576			
Variable rate:						
Senior notes	200,000	400,000	400,000			
Unsecured revolving credit facility	514,353	535,832	538,911			
Unsecured term loans	500,000	700,000	700,000			
Secured revolving construction credit facility	63,806	2,868	—			
Mortgage loans and other <sup>(1)</sup>	329,752	298,047	287,521			
Total	<u>\$ 10,584,000</u>	<u>\$ 11,365,633</u>	<u>\$ 11,511,618</u>			
<b>Percentage of total debt:</b>						
Fixed rate:						
Senior notes	73.6%	72.3%	71.4%			
Unsecured term loans	3.8	1.8	1.7			
Mortgage loans and other <sup>(1)</sup>	7.4	8.9	10.1			
Variable rate:						
Senior notes	1.9	3.5	3.5			
Unsecured revolving credit facility	4.9	4.7	4.7			
Unsecured term loans	4.7	6.2	6.1			
Secured revolving construction credit facility	0.6	0.0	—			
Mortgage loans and other <sup>(1)</sup>	3.1	2.6	2.5			
Total	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>			
<b>Weighted average interest rate at end of period:</b>						
Fixed rate:						
Senior notes	3.8%	3.7%	3.7%			
Unsecured term loans	2.9	2.1	2.1			
Mortgage loans and other <sup>(1)</sup>	4.7	5.2	5.4			
Variable rate:						
Senior notes	3.3	2.3	2.3			
Unsecured revolving credit facility	2.9	2.3	2.0			
Unsecured term loans	3.0	2.3	2.2			
Secured revolving construction credit facility	3.9	3.1	—			
Mortgage loans and other <sup>(1)</sup>	3.1	2.9	2.2			
Total	3.7	3.6	3.6			

<sup>(1)</sup> Excludes mortgage debt of \$13.7 million and \$57.4 million related to real estate assets classified as held for sale as of September 30, 2018 and December 31, 2017, respectively, which was included in liabilities related to assets held for sale on our Consolidated Balance Sheets.

The variable rate debt in the table above reflects, in part, the effect of \$349.6 million notional amount of interest rate swaps with maturities ranging from March 2022 to January 2023, in each case that effectively convert fixed rate debt to variable rate debt. In addition, the fixed rate debt in the table above reflects, in part, the effect of \$506.4 million notional

amount of interest rate swaps with maturities ranging from April 2019 to September 2027, in each case that effectively convert variable rate debt to fixed rate debt.

During the nine months ended September 30, 2018, we entered into \$300 million notional value forward starting swaps that reduced our exposure to fluctuations in interest rates prior to our August 2018 issuance of 4.40% senior notes due 2029, which resulted in a \$4.4 million gain that is being recognized over the life of the notes using the effective interest method.

In August 2018, we entered into interest rate swaps totaling a notional amount of \$200 million with a maturity of January 31, 2023 that effectively converts LIBOR-based floating rate debt to fixed rate debt.

In March 2017, we entered into interest rate swaps totaling a notional amount of \$400 million with a maturity of January 15, 2023, effectively converting fixed rate debt to three month LIBOR-based floating rate debt. As a result, we will pay a floating rate equal to three month LIBOR plus a weighted average swap spread of 0.98%. In August 2018, \$200 million notional amount of these swaps were terminated, which resulted in a \$6.6 million loss that is being recognized over the life of the notes using the effective interest method.

During June and December 2017, we entered into a total of \$200 million notional value forward starting swaps that reduced our exposure to fluctuations in interest rates prior to the February 2018 issuance of 4.00% senior notes due 2028. On the issuance date, we realized a gain of \$10.0 million from these swaps that is being recognized over the life of the senior notes using an effective interest method.

The decrease in our outstanding variable rate debt at September 30, 2018 compared to December 31, 2017 is primarily attributable to August 2018 interest rate swap activity.

Assuming a 100 basis point increase in the weighted average interest rate related to our variable rate debt and assuming no change in our variable rate debt outstanding as of September 30, 2018, interest expense for 2018 would increase by approximately \$14.8 million, or \$0.04 per diluted common share.

As of September 30, 2018 and December 31, 2017, our joint venture partners' aggregate share of total debt was \$102.5 million and \$76.7 million, respectively, with respect to certain properties we owned through consolidated joint ventures. Total debt does not include our portion of debt related to investments in unconsolidated entities, which was \$39.2 million and \$90.3 million as of September 30, 2018 and December 31, 2017, respectively.

As a result of our Canadian and United Kingdom operations, we are subject to fluctuations in certain foreign currency exchange rates that may, from time to time, affect our financial condition and operating performance. Based solely on our results for the nine months ended September 30, 2018 (including the impact of existing hedging arrangements), if the value of the U.S. dollar relative to the British pound and Canadian dollar were to increase or decrease by one standard deviation compared to the average exchange rate during the year, our normalized FFO per share for the three and nine months of 2018 would decrease or increase, as applicable, by less than \$0.01 per share or 1%. We will continue to mitigate these risks through a layered approach to hedging looking out for the next year and continual assessment of our foreign operational capital structure. Nevertheless, we cannot assure you that any such fluctuations will not have an effect on our earnings.

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

##### **Evaluation of Disclosure Controls and Procedures**

As required by Rules 13a-15(b) and 15d-15(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2018. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were effective as of September 30, 2018, at the reasonable assurance level.

#### **Internal Control Over Financial Reporting**

During the third quarter of 2018, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

The information contained in NOTE 11. "LITIGATION" of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q is incorporated by reference into this Item 1. Except as set forth therein, there have been no new material legal proceedings and no material developments in the legal proceedings reported in our Annual Report on Form 10-K for the year ended December 31, 2017.

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

#### Issuer Purchases of Equity Securities

We do not have a publicly announced repurchase plan or program in effect. The table below summarizes other repurchases of our common stock made during the quarter ended September 30, 2018.

	Number of Shares Repurchased <sup>(1)</sup>	Average Price Per Share
July 1 through July 31	23	\$ 58.80
August 1 through August 31	2,033	58.73
September 1 through September 30	8,102	55.35

<sup>(1)</sup> Repurchases represent shares withheld to pay taxes on the vesting of restricted stock granted to employees under our 2006 Incentive Plan or 2012 Incentive Plan or restricted stock units granted to employees under the Nationwide Health Properties, Inc. ("NHP") 2005 Performance Incentive Plan and assumed by us in connection with our acquisition of NHP. The value of the shares withheld is the closing price of our common stock on the date the vesting or exercise occurred (or, if not a trading day, the immediately preceding trading day) or the fair market value of our common stock at the time of exercise, as the case may be.

### ITEM 5. OTHER INFORMATION

Effective as of October 28, 2018, J.P. Morgan Securities LLC will no longer act as a Sales Agent pursuant to the ATM Equity Offering<sup>SM</sup> Sales Agreement, dated July 31, 2018, among the Company, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citigroup Global Markets Inc., Credit Agricole Securities (USA) Inc., J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, MUFG Securities Americas Inc., RBC Capital Markets, LLC, UBS Securities LLC and Wells Fargo Securities, LLC.

## ITEM 6. EXHIBITS

The exhibits required by Item 601 of Regulation S-K which are filed with this report are listed below.

Exhibit Number	Description of Document	Location of Document
<a href="#">10.1</a>	Credit and Guaranty Agreement dated as of July 26, 2018 among Ventas Realty, Limited Partnership, as Borrower, Ventas, Inc., as Guarantor, the Lenders identified therein and Bank of America, N.A., as Administrative Agent.	Filed herewith.
<a href="#">12.1</a>	Statement Regarding Computation of Ratios of Earnings to Fixed Charges.	Filed herewith.
<a href="#">31.1</a>	Certification of Debra A. Cafaro, Chairman and Chief Executive Officer, pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended.	Filed herewith.
<a href="#">31.2</a>	Certification of Robert F. Probst, Executive Vice President and Chief Financial Officer, pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended.	Filed herewith.
<a href="#">32.1</a>	Certification of Debra A. Cafaro, Chairman and Chief Executive Officer, pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934, as amended, and 18 U.S.C. § 1350.	Filed herewith.
<a href="#">32.2</a>	Certification of Robert F. Probst, Executive Vice President and Chief Financial Officer, pursuant to Rule 13a-14(b) under the Securities Exchange Act of 1934, as amended, and 18 U.S.C. § 1350.	Filed herewith.
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	Filed herewith.
101.SCH	XBRL Taxonomy Extension Schema Document	Filed herewith.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	Filed herewith.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	Filed herewith.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	Filed herewith.
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	Filed herewith.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: October 26, 2018

VENTAS, INC.

By:

/s/ DEBRA A. CAFARO

Debra A. Cafaro  
Chairman and  
Chief Executive Officer

By:

/s/ ROBERT F. PROBST

Robert F. Probst  
Executive Vice President and  
Chief Financial Officer

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**CREDIT AND GUARANTY AGREEMENT**

Dated as of July 26, 2018

among

**VENTAS REALTY, LIMITED PARTNERSHIP,**  
as Borrower,

**VENTAS, INC.,** as Guarantor,

**THE LENDERS PARTY HERETO FROM TIME TO TIME,**

**BANK OF AMERICA, N.A.,**  
as Administrative Agent,

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, and**  
**JPMORGAN CHASE BANK, N.A.,**  
as Joint Bookrunners

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,**  
**JPMORGAN CHASE BANK, N.A., CITIBANK, N.A..**

**CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK, MUFG BANK, LTD., PNC BANK, NATIONAL ASSOCIATION, ROYAL BANK OF CANADA, TD BANK, N.A., and WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Joint Lead Arrangers

**JPMORGAN CHASE BANK, N.A.,**  
as Syndication Agent

**CITIBANK, N.A., CREDIT AGRICOLE CORPORATE AND INVESTMENT BANK,**  
**MUFG BANK, LTD., PNC BANK, NATIONAL ASSOCIATION,**  
**ROYAL BANK OF CANADA, TD BANK, N.A., and**  
**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Co-Documentation Agents,

**THE BANK OF NOVA SCOTIA, THE BANK OF NEW YORK MELLON,**  
**BMO HARRIS BANK, N.A., BRANCH BANKING AND TRUST COMPANY,**  
**MIZUHO BANK, LTD., MORGAN STANLEY SENIOR FUNDING, INC., and**  
**SUMITOMO MITSUI BANKING CORPORATION,**  
as Senior Managing Agents

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- E U.S. Tax Compliance Certificates

## **CREDIT AND GUARANTY AGREEMENT**

This CREDIT AND GUARANTY AGREEMENT, dated as of July 26, 2018 (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership (“Ventas Realty” or the “Borrower”), VENTAS, INC., a Delaware corporation (“Ventas”), as guarantor, the lending institutions party hereto from time to time (each, a “Lender” and collectively, the “Lenders”), and BANK OF AMERICA, N.A., as Administrative Agent.

WHEREAS, the Borrower has requested that the Lenders provide a term loan facility pursuant to the terms of this Agreement and the Lenders are willing to do so on the terms and conditions set forth herein; and

WHEREAS, to provide assurance for the repayment of the Obligations hereunder, the Borrower will, among other things, provide or cause to be provided to the Administrative Agent, for the benefit of the holders of the Obligations so guaranteed, a guaranty of the Obligations by Ventas pursuant to Article XI hereof.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

### **Article I.**

#### **DEFINITIONS AND ACCOUNTING TERMS**

##### **1.01 Defined Terms.**

As used in this Agreement, the following terms shall have the meanings set forth below:

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affected Eurocurrency Rate Loan” has the meaning specified in Section 3.02.

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agent Parties” has the meaning specified in Section 10.02(c).

“Agents” means the Administrative Agent, the Arrangers, the Bookrunners, the Syndication Agent, the Co-Documentation Agents and the Senior Managing Agents.

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“Agreement” has the meaning specified in the introductory paragraph hereto.

“Annual Financial Statements” means the consolidated balance sheet of the Guarantor and its Subsidiaries for the fiscal year ended December 31, 2017 included in the Guarantor’s Annual Report on Form 10-K filed with the SEC on February 9, 2018, and the related consolidated statements of income or operations, equity and cash flows for such fiscal year of the Guarantor and its Subsidiaries, including the notes thereto.

“Anti-Money Laundering Law” means (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal, foreign, state or local laws relating to “know your customer” or anti-money laundering rules and regulations.

“Applicable Percentage” means, (a) in respect of the Term A-1 Facility, with respect to any Term A-1 Lender at any time, the percentage (carried out to the ninth decimal place) of the Term A-1 Facility represented by (i) on or prior to the Closing Date, such Lender’s Term Commitment at such time and (ii) thereafter, the principal amount of the Term A-1 Loan held by such Term A-1 Lender at such time, (b) in respect of the Term A-2 Facility, with respect to any Term A-2 Lender at any time, the percentage (carried out to the ninth decimal place) of the Term A-2 Facility represented by (i) on or prior to the Closing Date, such Lender’s Term Commitment at such time and (ii) thereafter, the principal amount of the Term A-2 Loan held by such Term A-2 Lender at such time, (c) in respect of each Incremental Term Loan Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of such Incremental Term Loan Facility represented by (i) on or prior to the applicable Increase Effective Date, such Lender’s allocated portion of such Incremental Term Loan Facility and (ii) thereafter, the principal amount of the Term Loans made under such Incremental Term Loan Facility and held by such Term Lender at such time and (d) in respect of all Facilities, with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Facilities represented by the aggregate principal amount of such Lender’s Term Loans at such time. The initial Applicable Percentage of each Lender in respect of each Facility and all Facilities is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means,

(a) for Term A-1 Loans and Term A-2 Loans, from time to time the number of basis points per annum set forth in the following table based upon the Debt Rating as set forth below:

Pricing Level	Debt Ratings	Term Loans	
		Applicable Rate for Eurocurrency Rate Loans	Applicable Rate for Base Rate Loans
1	$\geq A+ / ^3A1$	75.0 bps	0.0 bps
2	A / A2	80.0 bps	0.0 bps
3	A- / A3	85.0 bps	0.0 bps
4	BBB+ / Baa1	90.0 bps	0.0 bps
5	BBB / Baa2	100.0 bps	0.0 bps
6	BBB- / Baa3	125.0 bps	25.0 bps
7	<BBB- / <Baa3 or non-rated	165.0 bps	65.0 bps

For purposes hereof, the term “Debt Rating” refers to the long-term senior unsecured, non-credit enhanced debt rating of the Borrower by S&P, Moody’s or Fitch. If at any time when the Borrower has only two (2) Debt Ratings, and such Debt Ratings are split, then: (i) if the difference between such Debt Ratings is one ratings category (e.g. Baa2 by Moody’s and BBB- by S&P or Fitch), the higher of the Debt Ratings shall apply; and (ii) if the difference between such Debt Ratings is two or more ratings categories (e.g. Baa1 by Moody’s and BBB- by S&P or Fitch), the median of the applicable Debt Ratings shall apply. If at any time when the Borrower has three (3) Debt Ratings, and such Debt Ratings are split, then: (i) if the difference between the highest and the lowest such Debt Ratings is one ratings category (e.g. Baa2 by Moody’s and BBB- by S&P or Fitch), the highest of the Debt Ratings shall apply; and (ii) if the difference between such Debt Ratings is two or more ratings categories (e.g. Baa1 by Moody’s and BBB- by S&P or Fitch), the average of the two (2) highest Debt Ratings shall apply, provided that if such average is not a recognized rating category, then the second highest Debt Rating of the three shall apply.)

Initially, the Applicable Rate for the Term A-1 Loans and Term A-2 Loans shall be determined based upon the Debt Rating specified in the certificate delivered pursuant to Section 4.01(a)(vi). Thereafter, each change in the Applicable Rate shall occur on the first Business Day following the effective change in the Debt Rating.

(b) For any Incremental Term Loans, the applicable rate per annum in effect at such time with respect to such Incremental Term Loans shall be as agreed by the Borrower and the Appropriate Lenders in the Incremental Term Loan Facility Documents with respect to the applicable Incremental Term Loan Facility.

“Appropriate Lender” means, at any time, (a) with respect to the Term A-1 Facility, a Term A-1 Lender, (b) with respect to the Term A-2 Facility, a Term A-2 Lender, and (c) with respect to any Incremental Term Loan Facility, a Lender holding Term Loans of such Incremental Term Loan Facility.

**“Approved Fund”** means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

**“Arrangers”** means MLPFS, JPMorgan Chase Bank, N.A., Citibank, N.A., Credit Agricole Corporate and Investment Bank, MUFG Bank, Ltd., PNC Bank, National Association, Royal Bank of Canada, TD Bank, N.A., and Wells Fargo Bank, National Association, each in its capacity as a joint lead arranger.

**“Assignee Group”** means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

**“Assignment and Assumption”** means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.

**“Attributable Indebtedness”** means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

**“Bail-In Action”** means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

**“Bail-In Legislation”** means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

**“Bank of America”** means Bank of America, N.A. and its successors.

**“Bankruptcy Code”** means the Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, as codified at 11 U.S.C. § 101 et seq., and the rules and regulations promulgated thereunder, or any successor provision thereto.

**“Bankruptcy Plan”** has the meaning specified in Section 10.06(g)(iv).

**“Base Rate”** means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurocurrency Rate (as defined in clause (b) of the definition thereof) plus 1.00%. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

**“Base Rate Loan”** means a Loan that bears interest based on the Base Rate.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Bookrunners” means MLPFS and JPMorgan Chase Bank, N.A., each in its capacity as a joint bookrunner.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrowing” means a Term Borrowing.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state of New York or where the Administrative Agent’s Office is located and, if such day relates to any Eurocurrency Rate Loan, means any such day that is also a London Banking Day.

“Capitalization Rate” means 9.0% for all properties that were owned as of April 17, 2002, and that continue to be owned as of the date of determination, by any member of the Consolidated Group.

“Change in Law” means the occurrence, after the date of this Agreement, and with respect to any Person in particular, after the date such Person becomes a party to this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or a United States Governmental Authority, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means an event or series of events by which:

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option”

right)), directly or indirectly, of thirty-five percent (35%) or more of the equity securities of Ventas entitled to vote for members of the board of directors or equivalent governing body of Ventas on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right) and the Borrower shall not have repaid all of the outstanding Obligations in full in cash within forty-five (45) days after such Person or Affiliated Group shall have acquired such percentage of such stock; or

(b) Ventas ceases to be the sole general partner of Ventas Realty or Ventas ceases to own, directly or indirectly, more than fifty percent (50%) of the Equity Interests in Ventas Realty; or

(c) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Ventas cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"Class" when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Term A-1 Loans, Term A-2 Loans or Loans under an Incremental Term Loan Facility.

"Closing Date" means the first date on which all conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"Co-Documentation Agents" means each of Citibank, N.A., Credit Agricole Corporate and Investment Bank, MUFG Bank, Ltd., PNC Bank, National Association, Royal Bank of Canada, TD Bank, N.A., and Wells Fargo Bank, National Association, in the capacity as Co-Documentation Agent.

"Code" means the Internal Revenue Code of 1986.

"Committed Loan Notice" means a notice of (a) a Term Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans, in each case provided to the Administrative Agent pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit B or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent, which as of the Closing Date includes Bank of America's CashPro Credit Portal), appropriately completed and signed by a Responsible Officer of the Borrower.

"Commitments" means, collectively, the Term A-1 Commitments and the Term A-2 Commitments.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

**“Consolidated Adjusted Net Worth”** means, as of any day for the Consolidated Group, the sum of (a) total shareholders’ equity or net worth plus (b) accumulated depreciation and accumulated amortization, in each case, determined on a consolidated basis in accordance with GAAP; but excluding, in any event, for purposes hereof, unrealized gains and losses on Swap Contracts reported on a consolidated balance sheet as accumulated other comprehensive income or loss.

**“Consolidated EBITDA”** means, for any period for the Consolidated Group, the sum of Consolidated Net Income plus, without duplication, to the extent deducted in computing Consolidated Net Income, (a) amortization and depreciation expense, (b) other non-cash charges, (c) Consolidated Interest Expense, (d) provision for taxes, and (e) minority interest expense attributable to non-wholly owned Subsidiaries, in each case determined on a consolidated basis in accordance with GAAP; but excluding, in any event, (i) extraordinary gains and losses and related tax effects thereon, (ii) non-cash impairment charges, (iii) non-cash stock or option based compensation, (iv) other non-cash gains and losses and related tax effects thereon, and (v) merger-related expenses and deal costs, including transition and integration expenses related to consummated transactions and costs related to acquisitions and investments not permitted to be capitalized pursuant to GAAP.

**“Consolidated Fixed Charge Coverage Ratio”** means, on the last day of any fiscal quarter, the ratio of (a) Consolidated EBITDA for the four (4) consecutive fiscal quarters ending on such date to (b) Consolidated Fixed Charges for the four (4) consecutive fiscal quarters ending on such date.

**“Consolidated Fixed Charges”** means, for any period for the Consolidated Group, the sum of, without duplication, (a) Consolidated Interest Expense, plus (b) scheduled principal payments on Consolidated Total Indebtedness (excluding any balloon or final payment) during the applicable period, plus (c) cash dividends and distributions on preferred stock of Ventas, if any, in each case determined on a consolidated basis in accordance with GAAP; but excluding, in any event, (i) gains and losses from unwinding or break-funding of Swap Contracts, (ii) write-offs of unamortized deferred financing fees, (iii) prepayment fees, premiums and penalties, and (iv) other unusual or non-recurring items as are reasonably acceptable to the Administrative Agent and the Required Lenders.

**“Consolidated Gross Asset Value”** means, as of any day for the Consolidated Group, the sum of (a) the book value of all assets (prior to deduction for accumulated depreciation and accumulated amortization, but including the effect of any impairment charges, as reflected in the consolidated financial statements of the Consolidated Group prepared as of such date in accordance with GAAP) excluding properties that were owned as of April 17, 2002, and that continue to be owned as of the date of determination, by any member of the Consolidated Group, plus (b) an amount equal to the quotient of Consolidated EBITDA for the period of four (4) consecutive fiscal quarters most recently ended attributable to properties that were owned as of April 17, 2002, and that continue to be owned as of the date of determination, by any member of the Consolidated Group divided by the Capitalization Rate, minus (c) goodwill and other Intangible Assets.

**“Consolidated Group”** means Ventas and its Subsidiaries determined on a consolidated basis in accordance with GAAP.

**“Consolidated Interest Expense”** means, for any period for the Consolidated Group, interest expense determined in accordance with GAAP, but including, in any event, the interest component under capital leases and the implied interest component under securitization transactions and excluding, in any event, amortization of deferred financing fees, amortization of debt discounts and swap breakage costs.

**“Consolidated Net Income”** means, for any period for the Consolidated Group, net income or loss determined on a consolidated basis in accordance with GAAP; but excluding, in any event and without duplication, (a) the income or loss of any Person that is not a member of the Consolidated Group in which any member of the Consolidated Group has an equity investment or comparable interest, except to the extent of the amount of dividends or other distributions actually paid to members of the Consolidated Group by such Person during such period, (b) the income or loss of any Person accrued prior to the date that it became a member of the Consolidated Group or that such Person’s assets were acquired by a member of the Consolidated Group (except as otherwise required in connection with Section 1.03), (c) any net after tax gains or losses attributable to sales of non-current assets out of the ordinary course of business and write-downs of non-current assets in anticipation of losses to the extent they have decreased net income and (d) gains and losses from dispositions of depreciable real estate investments, impairment charges, the early extinguishment of debt and transaction costs of acquisitions not permitted to be capitalized pursuant to GAAP and other non-recurring items, including, without limitation, charges resulting from settlement of options to repurchase remarketable bonds and other similar charges.

**“Consolidated Secured Debt”** means the aggregate principal amount of Consolidated Total Indebtedness that is secured by a mortgage, deed of trust, lien, pledge, encumbrance or other security interest on assets owned or leased by a member of the Consolidated Group.

**“Consolidated Secured Debt Leverage Ratio”** means, on the last day of any fiscal quarter, the ratio of (a) Consolidated Secured Debt outstanding on such date to (b) Consolidated Gross Asset Value as of such date. Notwithstanding anything to the contrary contained herein, for the purposes of this ratio, (i) Consolidated Secured Debt on any date shall be adjusted by deducting therefrom an amount equal to the lesser of (x) the aggregate amount of Consolidated Secured Debt outstanding on such date that by its terms is scheduled to mature on or before the date that is twenty-four (24) months following such date and (y) the aggregate amount of all unrestricted cash and cash equivalents on such date and escrow and other deposits to the extent available for the repayment of Consolidated Secured Debt of the type described in clause (x) (excluding any such unrestricted cash and cash equivalents and escrow and other deposits used to determine the Consolidated Unsecured Leverage Ratio as of such date) and (ii) Consolidated Gross Asset Value shall be adjusted by deducting therefrom the amount by which Consolidated Secured Debt is adjusted under clause (i).

**“Consolidated Total Indebtedness”** means, as of any day for the Consolidated Group, the Indebtedness of the Consolidated Group; provided that Consolidated Total Indebtedness shall not include security deposits, accounts payable, accrued liabilities and prepaid rents, any intracompany debt, or dividends and distributions declared but not payable, each as defined in accordance with GAAP.

**“Consolidated Total Leverage Ratio”** means, on the last day of any fiscal quarter, the ratio of (a) Consolidated Total Indebtedness outstanding on such date to (b) Consolidated Gross Asset Value as of such date. Notwithstanding anything to the contrary contained herein, for the purposes of this ratio, (i) Consolidated Total Indebtedness on any date shall be adjusted by deducting therefrom an amount equal to the lesser of (x) the aggregate amount of Consolidated Total Indebtedness outstanding on such date that by its terms is scheduled to mature on or before the date that is twenty-four (24) months following such date and (y) the aggregate amount of all unrestricted cash and cash equivalents on such date and escrow and other deposits to the extent available for the repayment of Consolidated Total Indebtedness of the type described in clause (x) and (ii) Consolidated Gross Asset Value shall be adjusted by deducting therefrom the amount by which Consolidated Total Indebtedness is adjusted under clause (i).

**“Consolidated Unencumbered Assets”** means, for the Consolidated Group, net real estate investments, plus, without duplication, loans receivable and marketable securities of the Consolidated Group, in each case, that are free of any liens, encumbrances, pledges or negative pledges used to secure, or otherwise provide credit support for, Indebtedness. For purposes hereof, the term “negative pledge” shall exclude (i) a covenant that establishes a maximum ratio of unsecured debt to unencumbered assets, or of secured debt to total assets, or that otherwise conditions the ability of a member of the Consolidated Group to encumber its assets upon the maintenance of one or more specified ratios that limit such member’s ability to encumber its assets but that do not generally prohibit the encumbrance of its assets, or the encumbrance of specific assets, (ii) a requirement that an obligation be secured on an “equal and ratable basis” to the extent that Indebtedness under the Facilities is secured and (iii) a covenant relating to the sale of an asset that limits the creation of any lien pending the closing of the sale thereof.

**“Consolidated Unencumbered EBITDA”** means, for any period for the Consolidated Group, the portion of Consolidated EBITDA that is generated by Consolidated Unencumbered Assets.

**“Consolidated Unencumbered Gross Asset Value”** means an amount, determined as of the end of each fiscal quarter, equal to the sum of (a) the book value of all Consolidated Unencumbered Assets (prior to deduction for accumulated depreciation and accumulated amortization, but including the effect of any impairment charges, as reflected in the consolidated financial statements of the Consolidated Group prepared as of such date in accordance with GAAP) excluding unencumbered properties that were owned as of April 17, 2002, and that continue to be owned as of the date of determination, by any member of the Consolidated Group, plus (b) the quotient of Consolidated Unencumbered EBITDA from unencumbered properties that were owned as of April 17, 2002, and that continue to be owned as of the date of determination, by any member of the Consolidated Group divided by the Capitalization Rate; provided that the aggregate amount of Consolidated Unencumbered Gross Asset Value arising from loans receivable and marketable securities shall be excluded from the calculation of Consolidated Unencumbered Gross Asset Value to the extent that such amounts exceed, in the aggregate, 20% of Consolidated Unencumbered Gross Asset Value.

**“Consolidated Unsecured Debt”** means, at any time, the portion of Consolidated Total Indebtedness that is not Consolidated Secured Debt.

**“Consolidated Unsecured Leverage Ratio”** means, on the last day of any fiscal quarter, the ratio of (i) Consolidated Unsecured Debt outstanding on such date to (ii) Consolidated Unencumbered Gross Asset Value as of such date. Notwithstanding anything to the contrary contained herein, for the purposes of this ratio, (i) Consolidated Unsecured Debt on any date shall be adjusted by deducting therefrom an amount equal to the lesser of (x) the aggregate amount of Consolidated Unsecured Debt outstanding on such date that by its terms is scheduled to mature on or before the date that is twenty-four (24) months following such date and (y) the aggregate amount of all unrestricted cash and cash equivalents on such date and escrow and other deposits to the extent available for the repayment of Consolidated Unsecured Debt of the type described in clause (x) (excluding any such unrestricted cash and cash equivalents and escrow and other deposits used to determine the Consolidated Secured Debt Leverage Ratio as of such date) and (ii) Consolidated Unencumbered Gross Asset Value shall be adjusted by deducting therefrom the amount by which Consolidated Unsecured Debt is adjusted under clause (i).

**“Contractual Obligation”** means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

**“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlling”** and **“Controlled”** have meanings correlative thereto.

**“Credit Party”** means each of the Borrower and the Guarantor.

**“Debt Rating”** has the meaning specified in the definition of “Applicable Rate.”

**“Debtor Relief Laws”** means the Bankruptcy Code of the United States and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

**“Default Rate”** means an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate otherwise applicable to such Loan plus 2% per annum.

**“Defaulting Lender”** means, subject to Section 2.18(b), any Lender that (a) has failed to perform any of its funding obligations hereunder within two (2) Business Days of the date required to be funded by it hereunder, unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s reasonable determination that one or more condition precedents to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder (unless such notice or public statement states that such position is based on such Lender’s reasonable determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such notice or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender

(subject to Section 2.18(b)) upon delivery of written notice of such determination to the Borrower and the Administrative Agent.

**“Designated Jurisdiction”** means any country, region or territory to the extent that such country, region or territory is the subject of any Sanction.

**“Disposition”** or **“Dispose”** means the sale, transfer or assignment (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith, in any case other than sales or other dispositions of assets in the ordinary course of business.

**“Disqualified Institution”** has the meaning specified in the definition of **“Eligible Assignee”**.

**“Dollar”** and **“\$”** mean lawful money of the United States.

**“DQ List”** has the meaning specified in Section 10.06(g)(v).

**“EEA Financial Institution”** means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

**“EEA Member Country”** means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

**“EEA Resolution Authority”** means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

**“Eligible Assignee”** means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii), (v), (vi) and (vii) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include (A) any Competitor (as defined below), including Kindred Healthcare, Inc., Sunrise Senior Living, LLC, Atria Senior Living, Inc., Brookdale Senior Living Inc., Ardent Health Partners, LLC, Eclipse Senior Living, Inc. and any Person that is specifically identified by name as a Competitor by the Borrower in a list generally available to the Lenders on the Closing Date, which list may be updated from time to time after the Closing Date by the Borrower (but no such update shall become effective until the second Business Day after it is provided by the Borrower to the Administrative Agent for dissemination to the Lenders, and no such update shall apply retroactively to a Person that already acquired and continues to hold (or has and remains committed to acquire, without giving retroactive effect to any such commitment) an assignment or participation interest in the Facilities); (B) a prospective assignee or successor administrative agent (other than a Lender or an Affiliate of a Lender) which is or has been an adverse party in litigation or other legal proceedings with, or has threatened, litigation or other legal proceedings against, any Credit Party and (C) any Affiliate of any Person listed in clause (A) or (B) above that is either identified to the Administrative Agent in writing from time to time for distribution to the Lenders, or clearly identifiable on the basis of such Affiliate’s name (any such Person under this proviso, a **“Disqualified Institution”**). For purposes hereof, **“Competitor”** means a real estate investment trust investing primarily in healthcare and/or seniors housing properties, any tenant

under a Material Lease, or any other manager of a property owned or leased by a member of the Consolidated Group. Neither the Administrative Agent nor any Lender shall have any liability in the event of an assignment to any Person not then actually known by the Administrative Agent or such Lender to be a Competitor or a Disqualified Institution under clause (B) of the first sentence of this definition.

**“Engagement Letter”** means that certain letter agreement dated as of June 22, 2018, among the Borrower, Bank of America and the Arrangers.

**“Environmental Laws”** means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

**“Environmental Liability”** means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Credit Parties or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

**“Equity Interests”** means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person and all of the warrants or options for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person (but excluding any debt security that is convertible into or exchangeable for capital stock).

**“ERISA”** means the Employee Retirement Income Security Act of 1974.

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) under common control with Ventas Realty within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

**“ERISA Event”** means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by Ventas Realty or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by Ventas Realty or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of an amendment to a Pension Plan or Multiemployer Plan as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Ventas Realty or any ERISA Affiliate in excess of the Threshold Amount.

**“EU Bail-In Legislation Schedule”** means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurocurrency Rate” means:

(a) with respect to any Borrowing (other than a Base Rate Loan) for any Interest Period, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest rate calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined two Business Days prior to such date for U.S. Dollar deposits with a term of one month commencing that day;

provided that to the extent a comparable or successor rate is approved by the Administrative Agent in connection with any rate set forth in this definition, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent; and if the Eurocurrency Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Eurocurrency Rate Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of the Eurocurrency Rate.

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means, with respect to any Recipient of any payment to be made by or on account of any obligation of the Credit Parties hereunder, (a) Taxes imposed on or measured by its net income (however denominated), franchise taxes, and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Recipient (other than an assignee pursuant to a request by the Borrower under Section 10.13), any U.S. withholding Tax that is imposed on amounts payable to such Recipient pursuant to a law in effect at the time such Recipient becomes a party hereto (or designates a new Lending Office) or is attributable to such Recipient’s failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(e), except to the extent that such Recipient (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Credit Parties with respect to such withholding Tax pursuant to Section 3.01(a), (c) [reserved], (d) Taxes attributable to such Recipient’s failure to comply with Section 3.01(e), and (e) any Taxes imposed under FATCA.

“Existing Credit Agreement” means the Second Amended and Restated Credit and Guaranty Agreement, dated as of April 25, 2017, among Ventas Realty, the other borrowers party thereto, the guarantors and lenders party thereto and Bank of America, N.A., as administrative agent.

“Existing Term Loan Agreement” means the Credit and Guaranty Agreement, dated as of August 3, 2015, among Ventas Realty, Ventas, the lenders party thereto and Bank of America, as administrative agent.

**“Facility”** means the Term A-1 Facility, the Term A-2 Facility and each Incremental Term Loan Facility, as the context may require.

**“FASB ASC”** means the Accounting Standards Codification of the Financial Accounting Standards Board.

**“FATCA”** means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations promulgated thereunder or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code (or any amended or successor version described in the first parenthetical above), and any fiscal or regulatory legislation, rules or practices implementing an intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.

**“Federal Funds Rate”** means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

**“Fitch”** means Fitch Ratings, Inc. and any successor thereto.

**“Foreign Lender”** means any Lender that is organized under the Laws of a jurisdiction other than that in which the Borrower to which such Lender has made any Loan hereunder is a resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

**“FRB”** means the Board of Governors of the Federal Reserve System of the United States.

**“Fund”** means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

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

**“Governmental Authority”** means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

**“Guarantee”** means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any payment obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

**“Guaranteed Obligations”** has the meaning given to such term in Section 11.01.

**“Guarantor”** means Ventas and any other Person that guarantees the Obligations.

**“Guaranty”** means the guaranty of the Obligations by the Guarantor pursuant to Article XI hereof.

**“Hazardous Materials”** means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

**“Increase Effective Date”** has the meaning set forth in Section 2.16(d).

**“Incremental Facilities”** has the meaning set forth in Section 2.16(a).

**“Incremental Term A-1 Increase”** has the meaning specified in Section 2.16(a).

**“Incremental Term A-2 Increase”** has the meaning specified in Section 2.16(a).

**“Incremental Term Loan Facility”** has the meaning set forth in Section 2.16(a).

**“Incremental Term Loan Facility Documents”** means, with respect to any Incremental Term Loan Facility, each agreement, instrument and other document evidencing, securing, guaranteeing, or otherwise relating to such Incremental Term Loan Facility, including any applicable New Lender Joinder Agreement.

**“Indebtedness”** means (without duplication), at any time and with respect to any Person, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money, whether secured or unsecured, and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments including, without limitation, recourse and non-recourse mortgage debt;
- (b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;
- (c) aggregate net obligations of such Person under Swap Contracts;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business), excluding liabilities with respect to earnouts, reimbursements, true-ups and other similar obligations incurred in connection with the purchase or sale of assets except to the extent such liabilities are required to appear on a balance sheet prepared in accordance with GAAP;
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse, to the extent of the value of the property encumbered by such Lien;
- (f) capital leases and Synthetic Lease Obligations;
- (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person at any time prior to the date that is six months after the latest Maturity Date at such time (other than obligations that can solely be satisfied by delivery of Equity Interests of such Person), valued, in the case of a redeemable preferred interest, at the liquidation preference thereof, and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, (i) the amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date (which shall be a positive number if such amount would be owed by a member of the Consolidated Group and a negative number if such amount would be owed to a member of the Consolidated Group) and the net obligations under Swap Contracts shall not be less than zero and (ii) the amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date. Any liability will be excluded so long as it is (1) secured by a letter of credit issued for the benefit of a Credit Party or other member of the Consolidated Group in form and substance and from a financial institution reasonably acceptable to the Administrative Agent, but only to the extent no Credit Party or other member of the Consolidated Group has liability therefor, (2) any obligation (including obligations under so called "sandwich leases") against which a third party indemnified any Credit Party or other member of the Consolidated Group, or guarantees all loss suffered by any Credit Party or other member of the Consolidated Group on account thereof, to the extent the indemnitor or guarantor has the financial wherewithal to satisfy its obligation, or (3) is otherwise acceptable as a "Covered Liability" in the reasonable discretion of the Administrative Agent and the Required Lenders.

**“Indemnified Taxes”** means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

**“Indemnitee”** has the meaning specified in Section 10.04(b).

**“Intangible Assets”** means assets of a Person and its Subsidiaries that are classified as intangible assets under GAAP, but excluding interests in real estate that are classified as intangible assets in accordance with GAAP.

**“Interest Payment Date”** means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the applicable Maturity Date; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each calendar quarter and the applicable Maturity Date.

**“Interest Period”** means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months or one week thereafter, as selected by the Borrower in the applicable Committed Loan Notice, or such other period that is twelve months or less requested by the Borrower and consented to by all the Lenders providing such Eurocurrency Rate Loan; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) with respect to any Interest Period of one month or greater, the Borrower may specify in the applicable Committed Loan Notice an alternative date as the last day of such Interest Period, which date shall be a Business Day not more than three (3) Business Days prior to or following the date that such Interest Period would otherwise end pursuant to the preceding clauses (i) and (ii) (but in no event shall such alternative date be a date in a later calendar month); and

(iv) no Interest Period shall, with respect to any Loan, extend beyond the applicable Maturity Date.

**“Investment”** means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant

compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IRS” means the United States Internal Revenue Service.

“Joint Venture” means any Person in which any member of the Consolidated Group directly or indirectly has an ownership interest but is not a Subsidiary.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Lender” has the meaning specified in the introductory paragraph hereto. The term “Lender” may also be used to refer to a Term A-1 Lender, a Term A-2 Lender or a Lender under an Incremental Term Loan Facility.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

“LIBOR” has the meaning specified in the definition of Eurocurrency Rate.

“LIBOR Screen Rate” means the LIBOR quote on the applicable screen page the Administrative Agent designates to determine LIBOR (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

“LIBOR Successor Rate” has the meaning specified in Section 3.07.

“LIBOR Successor Rate Conforming Changes” means, with respect to any proposed LIBOR Successor Rate, any conforming changes to (a) the definitions of Base Rate, Interest Period and/or Applicable Rate, (b) timing and frequency of determining rates and making payments of interest and (c) other administrative matters as may be appropriate, in the discretion of the Administrative Agent, to (i) reflect the adoption of such LIBOR Successor Rate and (ii) permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent determines in consultation with the Borrower).

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

**“Loan”** means an extension of credit by a Lender to the Borrower under Article II in the form of a Term Loan.

**“Loan Documents”** means this Agreement, each Note and the Engagement Letter.

**“London Banking Day”** means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

**“Master Agreement”** has the meaning specified in the definition of **“Swap Contract”**.

**“Material Adverse Effect”** means any event or condition that (a) has a material adverse effect on the business, assets, properties, operations or financial condition of the Credit Parties and their Subsidiaries taken as a whole or (b) materially impairs the ability of the Credit Parties as a whole to perform their material obligations under any Loan Document; provided, however, that any event or condition will be deemed to have a “Material Adverse Effect” if such event or condition when taken together with all other events and conditions occurring or in existence at such time (including all other events and conditions which, but for the fact that a representation, warranty or covenant is subject to a “Material Adverse Effect” exception, would cause such representation or warranty contained herein to be untrue or such covenant to be breached) would result in a “Material Adverse Effect”, even though, individually, such event or condition would not do so.

**“Material Group”** has the meaning specified in the definition of **“Material Subsidiary”**.

**“Material Lease”** means any lease in which any member of the Consolidated Group is the landlord that individually or together with such tenant’s other leases in which any member of the Consolidated Group is the landlord, requires annual base rent to be paid to the Consolidated Group in excess of \$100,000,000.

**“Material Recourse Indebtedness”** means any Indebtedness of a Credit Party and/or any Subsidiary (other than Indebtedness hereunder and Indebtedness under Swap Contracts) that (a) does not constitute Non-Recourse Indebtedness, and (b) individually or in the aggregate, has a principal amount (including, without duplication, undrawn committed or available amounts and amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount.

**“Material Subsidiary”** means each Subsidiary or any group of Subsidiaries (i) which, as of the most recent fiscal quarter of the Guarantor for which financial statements have been delivered pursuant to Section 6.01, contributed greater than \$100,000,000 of Consolidated EBITDA for the period of four consecutive fiscal quarters then ended or (ii) which contributed greater than \$300,000,000 of Consolidated Gross Asset Value as of such date. A group of Subsidiaries (a **“Material Group”**) each of which is not otherwise a Material Subsidiary (defined in the foregoing sentence) shall constitute a Material Subsidiary if the group taken as a single entity satisfies the requirements of the foregoing sentence.

**“Maturity Date”** means (a) with respect to the Term A-1 Facility, the Term A-1 Maturity Date, (b) with respect to the Term A-2 Facility, the Term A-2 Maturity Date and/or (c) with respect to any Incremental Term Loan Facility, subject to Section 2.16(a), the date set forth in the applicable Incremental Term Loan Facility Documents as the “Maturity Date” for such Term Facility or, if the applicable Incremental Term Loan Facility Documents fail to specify a “Maturity Date”, the Maturity Date shall be the latest Maturity Date (giving effect to any available extension options) of any then existing Facility; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date of such Incremental Term Loan Facility shall be the next preceding Business Day.

“Maximum Rate” has the meaning specified in Section 10.09.

“MLPFS” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the Closing Date).

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which Ventas Realty or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“New Lender Joinder Agreement” has the meaning specified in Section 2.16(c).

“Non-Recourse Indebtedness” of a Person means any Indebtedness of such Person, the recourse for which is limited to assets of such Person securing such Indebtedness (and, if applicable, in the event such Person owns no assets other than real estate that secures such Indebtedness and assets incident to ownership of such real estate (e.g., personal property) and has no other Indebtedness, to such Person and/or such Person’s Equity Interests), other than in respect of environmental liabilities, fraud, misrepresentation and other similar matters.

“Notes” means, collectively, the Term A-1 Notes, the Term A-2 Notes and any promissory notes made by the Borrower in favor of a Term Lender under an Incremental Term Loan Facility evidencing the Term Loans made by such Term Lender under such Incremental Term Loan Facility in a form agreed among the Borrower, the Administrative Agent and the Appropriate Lenders, as the context may require, and “Note” means any of them individually.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of the Borrower arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

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

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Connection Taxes” means Taxes imposed as a result of a present or former connection between a Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient

having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes arising from any payment made hereunder or under any other Loan Document or from the execution, delivery, performance, enforcement or registration of, or from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document except any such Taxes that are Other Connection Taxes (other than an assignment made pursuant to Section 3.06(b)).

“Outstanding Amount” means, with respect to the Term Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Loans, as the case may be, occurring on such date.

“Overnight Rate” means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Participant” has the meaning specified in Section 10.06(d).

“Participant Register” has the meaning specified in Section 10.06(d).

“Patriot Act” has the meaning specified in Section 10.17.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by Ventas Realty or any ERISA Affiliate or to which Ventas Realty or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by Ventas Realty or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

“Pro Forma Basis” means, for purposes of determining Consolidated EBITDA, Consolidated Fixed Charges, Consolidated Interest Expense, Consolidated Net Income and any financial covenant hereunder, that the subject transaction shall be deemed to have occurred as of the first day of the period of four (4) consecutive fiscal quarters ending as of the end of the most recent fiscal quarter for which annual or quarterly financial statements shall have been delivered in accordance with the provisions of this Agreement. Further, for purposes of making calculations on a “Pro Forma Basis” hereunder, (a) in the case of a Disposition, (i) income statement items (whether positive or negative) attributable to the property, entities or business units

that are the subject of such Disposition shall be excluded to the extent relating to any period prior to the date of the subject transaction, and (ii) Indebtedness paid or retired in connection with the subject transaction shall be deemed to have been paid and retired as of the first day of the applicable period; (b) in the case of an acquisition, development or redevelopment, (i) income statement items (whether positive or negative) attributable to the property, entities or business units that are the subject of such acquisition, development or redevelopment shall be included to the extent relating to any period prior to the date of the subject transaction, and (ii) Indebtedness incurred in connection with the subject transaction shall be deemed to have been incurred as of the first day of the applicable period (and interest expense shall be imputed for the applicable period utilizing the actual interest rates thereunder or, if actual rates are not ascertainable, assuming prevailing interest rates hereunder) and (c) in the case of the issuance or exercise of Equity Interests, Indebtedness paid or retired in connection therewith shall be deemed to have been paid and retired as of the first day of the applicable period.

**PTE** means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

**Public Lender** has the meaning specified in Section 6.02.

**Rate Determination Date** means two (2) Business Days prior to the commencement of the applicable Interest Period (or such other day as is generally treated as the rate fixing day by market practice in such interbank market, as determined by the Administrative Agent); provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such other day as otherwise reasonably determined by the Administrative Agent.

**Recipient** means (a) the Administrative Agent or (b) any Lender, as applicable.

**Register** has the meaning specified in Section 10.06(c).

**REIT** means a real estate investment trust as defined in Sections 856-860 of the Code.

**Related Parties** means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, auditors (including internal auditors), attorneys and representatives of such Person and of such Person's Affiliates.

**Reportable Event** means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30-day notice period has been waived.

**Request for Borrowing** means, with respect to a Term Borrowing or a conversion or continuation of Loans, a Committed Loan Notice.

**Required Incremental Term Loan Facility Lenders** means, as of any date of determination, with respect to any Incremental Term Loan Facility, Lenders holding more than 50% of the Outstanding Amount of Loans under such Incremental Term Loan Facility on such date; provided that the portion of such Incremental Term Loan Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Incremental Term Loan Facility Lenders.

**Required Lenders** means, as of any date of determination, Lenders holding more than 50% of the Outstanding Amount of the Term Facilities on such date; provided that the portion of the Term Facilities held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

**“Required Term A-1 Lenders”** means, as of any date of determination, Term A-1 Lenders holding more than 50% of the Outstanding Amount of the Term A-1 Facility on such date; provided that the portion of the Term A-1 Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term A-1 Lenders.

**“Required Term A-2 Lenders”** means, as of any date of determination, Term A-2 Lenders holding more than 50% of the Outstanding Amount of the Term A-2 Facility on such date; provided that the portion of the Term A-2 Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term A-2 Lenders.

**“Responsible Officer”** means the chief executive officer, any executive vice president, any vice president, and the treasurer of any Credit Party or any entity authorized to act on behalf of a Credit Party, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary of a Credit Party or any entity authorized to act on behalf of a Credit Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Credit Party or entity authorized to act on behalf of a Credit Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Credit Party or entity authorized on behalf of such Credit Party designated in or pursuant to an agreement between the applicable Credit Party or entity authorized on behalf of such Credit Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Credit Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Credit Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

**“Restricted Payment”** means any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of the Guarantor’s Equity Interests, or on account of any return of capital to the Guarantor’s stockholders, partners or members (or the equivalent Person thereof); provided that dividends to the extent in the form of Equity Interests shall not constitute Restricted Payments.

**“S&P”** means S&P Global Ratings, a division of S&P Global Inc., and any successor thereto.

**“Same Day Funds”** means immediately available funds.

**“Sanction(s)”** means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the Canadian Government, the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

**“Scheduled Unavailability Date”** has the meaning specified in Section 3.07(a)(ii).

**“SEC”** means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

**“Senior Managing Agents”** means The Bank of Nova Scotia, The Bank of New York Mellon, BMO Harris Bank, N.A., Branch Banking and Trust Company, Mizuho Bank, Ltd., Morgan Stanley Senior Funding, Inc., and Sumitomo Mitsui Banking Corporation, in their capacity as Senior Managing Agents.

**“Significant Acquisition”** means the acquisition (in one or a series of related transactions) of all or substantially all of the assets or Equity Interests of a Person or any division, line of business or business unit of a Person for an aggregate consideration in excess of \$450,000,000.

**“Subsidiary”** of a Person means a corporation, partnership, joint venture, limited liability company or other business entity the accounts of which are consolidated with the accounts of such Person in the Person’s consolidated financial statements prepared in accordance with GAAP. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of Ventas.

**“Swap Contract”** means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any Master Agreement (as defined below), and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

**“Swap Termination Value”** means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

**“Syndication Agent”** means JPMorgan Chase Bank, N.A. in its capacity as Syndication Agent.

**“Synthetic Lease Obligation”** means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) any similar off-balance sheet financing product that is considered borrowed money indebtedness for tax purposes but classified as an operating lease under GAAP.

**“Taxes”** means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

**“Term A-1 Borrowing”** means a borrowing consisting of simultaneous Term A-1 Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term A-1 Lenders pursuant to Section 2.01(b)(i).

**“Term A-1 Commitment”** means, as to each Term A-1 Lender, its obligation to make Term A-1 Loans to the Borrower pursuant to Section 2.01(b)(i) in an aggregate principal amount at any one time outstanding

not to exceed the amount set forth opposite such Term A-1 Lender's name on Schedule 2.01 under the caption "Term A-1 Commitment" or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Term A-1 Lender became a party hereto, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate Term A-1 Commitments for all Term A-1 Lenders is \$300,000,000.

"Term A-1 Facility" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Term A-1 Commitments at such time and (b) thereafter, the aggregate principal amount of the Term A-1 Loans of all Term A-1 Lenders outstanding at such time.

"Term A-1 Lender" means at any time any Lender that holds Term A-1 Loans at such time.

"Term A-1 Loan" means an advance made by any Term A-1 Lender under the Term A-1 Facility.

"Term A-1 Maturity Date" means January 31, 2023.

"Term A-1 Note" means a promissory note made by the Borrower in favor of a Term A-1 Lender, evidencing Term A-1 Loans made by such Term A-1 Lender, substantially in the form of Exhibit D-1.

"Term A-2 Borrowing" means a borrowing consisting of simultaneous Term A-2 Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term A-2 Lenders pursuant to Section 2.01(b)(ii).

"Term A-2 Commitment" means, as to each Term A-2 Lender, its obligation to make Term A-2 Loans to the Borrower pursuant to Section 2.01(b)(ii) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term A-2 Lender's name on Schedule 2.01 under the caption "Term A-2 Commitment" or in the Assignment and Assumption or New Lender Joinder Agreement pursuant to which such Term A-2 Lender became a party hereto, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate Term A-2 Commitments for all Lenders is \$600,000,000.

"Term A-2 Facility" means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Term A-2 Commitments at such time and (b) thereafter, the aggregate principal amount of the Term A-2 Loans of all Term A-2 Lenders outstanding at such time.

"Term A-2 Lender" means at any time any Lender that holds Term A-2 Loans at such time.

"Term A-2 Loan" means an advance made by any Term A-2 Lender under the Term A-2 Facility.

"Term A-2 Maturity Date" means January 31, 2024.

"Term A-2 Note" means a promissory note made by the Borrower in favor of a Term A-2 Lender, evidencing Term A-2 Loans made by such Term A-2 Lender, substantially in the form of Exhibit D-2.

"Term Borrowing" means a Term A-1 Borrowing, a Term A-2 Borrowing or a borrowing consisting of simultaneous Term Loans under an Incremental Term Loan Facility of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term Lenders participating in such Incremental Term Loan Facility.

“Term Facilities” means the Term A-1 Facility, the Term A-2 Facility and each Incremental Term Loan Facility.

“Term Lender” means a Term A-1 Lender, a Term A-2 Lender or any Lender that holds a Term Loan under an Incremental Term Loan Facility.

“Term Loan” means a Term A-1 Loan, a Term A-2 Loan and, unless otherwise specified, each term loan made in connection with any Incremental Term Loan Facility.

“Threshold Amount” means \$125,000,000.

“Type” means, with respect to a Term Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.

“Unfunded Pension Liability” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

“United States” and “U.S.” mean the United States of America.

“Ventas” means Ventas, Inc., a Delaware corporation, and its permitted successors.

“Ventas Realty” means Ventas Realty, Limited Partnership, a Delaware limited partnership.

“Wholly-Owned Subsidiary” means any wholly-owned Subsidiary of the Guarantor that is not a special purpose entity.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

## **1.02 Other Interpretive Provisions.**

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections,

Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

#### **1.03 Accounting Terms.**

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Annual Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Consolidated Group shall be deemed to be carried in accordance with GAAP, excluding the effects of FASB ASC 825 on financial liabilities.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Annual Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

(c) Pro Forma Basis. Determinations of compliance with the financial covenants hereunder shall be made on a Pro Forma Basis.

#### **1.04 Rounding.**

Any financial ratios required to be maintained by the Credit Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

## **1.05 Electronic Execution of Assignments and Certain Other Documents.**

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection with this Agreement and the transactions contemplated hereby or thereby (including Assignment and Assumptions, amendments or other modifications, Committed Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or 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, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary, but subject to the agreements set forth in Section 10.02, neither the Administrative Agent nor any Lender is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent or such Lender pursuant to procedures approved by it; and provided further without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart.

## **1.06 Times of Day; Rates.**

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the establishment of the rates described in the definition of “Eurocurrency Rate” or with respect to any comparable or successor rates thereto.

# **ARTICLE II.**

## **THE COMMITMENTS AND BORROWINGS**

### **2.01 Commitments.**

- (a) [Reserved].
- (b) Term Loans.

(i) Term A-1 Loans. Subject to the terms and conditions set forth herein, each Term A-1 Lender severally agrees to make a single loan to the Borrower on the Closing Date in Dollars in an amount not to exceed such Term A-1 Lender’s Term A-1 Commitment.

(ii) Term A-2 Loans. Subject to the terms and conditions set forth herein, each Term A-2 Lender severally agrees to make a single loan to the Borrower on the Closing Date in Dollars in an amount not to exceed such Term A-2 Lender’s Term A-2 Commitment.

(iii) Any Term Loans repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein. Notwithstanding anything

to the contrary contained herein, each Lender may, at its option, fulfill its obligations to make any Term Loan available to the Borrower by causing any foreign or domestic branch or Affiliate of such Lender to make such Loan; provided that the exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

## **2.02 Borrowings, Conversions and Continuations of Loans.**

(a) Each Term Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone, or (B) a Committed Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Committed Loan Notice. Each such notice must be received by the Administrative Agent not later than 12:00 Noon (i) three (3) Business Days prior to the requested date of any Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans or of any conversion of Eurocurrency Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans; provided, however, that if the Borrower wishes to request Eurocurrency Rate Loans having an Interest Period other than one week or one, two, three or six months in duration as provided in the definition of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 11:00 a.m. four Business Days prior to the requested date of such Borrowing of, conversion to or continuation of Eurocurrency Rate Loans, whereupon the Administrative Agent shall give prompt notice to the Appropriate Lenders of such request and determine whether the requested Interest Period is acceptable to all of them. Not later than 11:00 a.m., three Business Days before the requested date of such Borrowing of, conversion to or continuation of Eurocurrency Rate Loans, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the Appropriate Lenders. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof.

Each Committed Loan Notice shall specify (i) the name of the Borrower, (ii) whether the Borrower is requesting a Term Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans, (iii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iv) the principal amount of Loans to be borrowed, converted or continued, (v) the Type and Class of Loans to be borrowed or continued or to which existing Loans are to be converted, and (vi) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice with respect to a Term Borrowing or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Term Borrowing, then the applicable Loans shall be made as, or continued as Eurocurrency Rate Loans with an Interest Period of one month. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) In the case of a Term Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 2:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction or waiver of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Borrowing, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds,

in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan. During the existence of an Event of Default, no Loans may be converted to or continued as Eurocurrency Rate Loans if the Administrative Agent has notified the Borrower that the Required Lenders have determined that such a continuation or conversion is not appropriate, and the Required Lenders may require that any or all of the then outstanding Eurocurrency Rate Loans be prepaid or converted into Base Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the applicable Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate.

(e) After giving effect to all Term Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than eight (8) Interest Periods in effect with respect to all Loans.

**2.03 [Reserved].**

**2.04 [Reserved].**

**2.05 [Reserved].**

**2.06 Prepayments.**

(a) The Borrower may, upon notice by the Borrower to the Administrative Agent, at any time or from time to time, voluntarily prepay Term Loans in whole or in part without premium or penalty; provided that (i) such notice must be in a form reasonably acceptable to the Administrative Agent and be received by the Administrative Agent not later than 11:00 a.m. (A) two (2) Business Days (or such shorter period as the Administrative Agent shall agree) prior to any date of prepayment of Eurocurrency Rate Loans and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Eurocurrency Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof; and (iii) any prepayment of Term Loans that are Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof, or in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment, the Facility and the Type(s) of Term Loans to be prepaid and, if Eurocurrency Rate Loans are to be prepaid, the Interest Period(s) of such Term Loans. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided, however, that a notice of voluntary prepayment may state that such notice is conditioned upon an event, such as the effectiveness of other credit facilities, the receipt of the proceeds from the issuance of Equity Interests or other Indebtedness or the receipt of the proceeds from a Disposition, in which case such notice of prepayment may be revoked by the Borrower if such condition is not satisfied. Any prepayment of Term Loans that are Eurocurrency Rate Loans shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.18, each prepayment made pursuant to this clause (a) shall be made ratably among the Appropriate Lenders in accordance with their respective Applicable Percentages in respect of the applicable Facility.

- (b) [Reserved].
- (c) [Reserved].
- (d) [Reserved].
- (e) [Reserved].
- (f) [Reserved].

#### **2.07 Termination or Reduction of Commitments.**

Notwithstanding anything to the contrary contained herein, immediately after funding of the Term Loans on the Closing Date, the Term Commitments shall be automatically and permanently reduced to zero.

#### **2.08 Repayment.**

- (a) [Reserved].
- (b) [Reserved].
- (c) The Borrower shall repay the Outstanding Amount of each Term A-1 Loan on the Term A-1 Maturity Date, unless accelerated sooner pursuant to Section 8.02, together with accrued but unpaid interest, fees and all other sums with respect thereto.
- (d) The Borrower shall repay the Outstanding Amount of each Term A-2 Loan on the Term A-2 Maturity Date, unless accelerated sooner pursuant to Section 8.02, together with accrued but unpaid interest, fees and all other sums with respect thereto.
- (e) The Borrower shall repay to the Term Lenders holding Term Loans of any Incremental Term Loan Facility on the Maturity Date for such Incremental Term Loan Facility the aggregate principal amount of all Term Loans of such Incremental Term Loan Facility outstanding on such date, unless accelerated sooner pursuant to Section 8.02, together with accrued but unpaid interest, fees and all other sums with respect thereto.

#### **2.09 Interest.**

(a) Applicable Interest. Subject to the provisions of subsection (b) below, (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period applicable thereto at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) Default Interest.

(i) If any amount of principal of any Loan is not paid when due, whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest Payment Date. Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

#### **2.10 Fees.**

The Borrower shall pay to the Bookrunners and the Administrative Agent for their own respective accounts, in Dollars, fees in the amounts and at the times specified in the Engagement Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever, absent manifest error.

#### **2.11 Computation of Interest and Fees.**

All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurocurrency Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.13(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

#### **2.12 Evidence of Debt.**

The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. Subject to the entries in the Register, which shall be controlling, the accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and

deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

### **2.13 Payments Generally; Administrative Agent's Clawback.**

(a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Subject to the following sentence, except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a date other than a Business Day, such due date shall be extended to the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 2:00 p.m. on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to the Loans constituting such Borrowing. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. In the event the Borrower pays such amount to the Administrative Agent, then such amount shall reduce the principal amount of such Borrowing. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by the Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the applicable Lenders hereunder that the Borrower

will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) **Failure to Satisfy Conditions Precedent**. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) **Obligations of Lenders Several**. The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Appropriate Lender to make any Loan shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan.

(e) **Funding Source**. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

#### **2.14 Sharing of Payments by Lenders.**

If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any Loans made by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans or such other amounts owing them, as applicable, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section 2.14 shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender or Disqualified Institution), or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary thereof (as to which the provisions of this Section 2.14 shall apply).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Laws, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

**2.15 [Reserved].**

**2.16 Increase in Facilities.**

(a) Request for Increase. At any time prior to the applicable Maturity Date, upon written notice to the Administrative Agent by the Borrower, the Borrower shall have the right to request an increase in the aggregate amount of the Term Facilities to an amount not exceeding \$1,500,000,000 in the aggregate after giving effect to such increase by requesting an increase in the Term A-1 Facility (each such increase, an "Incremental Term A-1 Increase"), requesting an increase in the Term A-2 Facility (each such increase, an "Incremental Term A-2 Increase") or establishing a new (or increasing an existing) tranche of pari passu term loans (each an "Incremental Term Loan Facility"; each Incremental Term Loan Facility, Incremental Term A-1 Increase and Incremental Term A-2 Increase are collectively referred to as "Incremental Facilities"); provided that (i) no Default has occurred and is continuing, (ii) each Incremental Facility must be in a minimum amount of \$10,000,000 and in integral multiples of \$5,000,000 in excess thereof (or such other amounts as are agreed to by the Borrower and the Administrative Agent), (iii) all Incremental Term A-1 Increases and Incremental Term A-2 Increases shall be on the same terms as the Facility being increased, (iv) all incremental commitments and loans provided as part of an Incremental Term Loan Facility shall, subject to clause (i) of the second proviso to Section 10.01, be on terms agreed to by the Borrower and the Lenders providing such Incremental Term Loan Facility, provided, that (x) the final maturity date of an Incremental Term Loan Facility may not be earlier than the latest maturity date (including any available extension option) of any then existing Facility and (y) if the terms of such Incremental Term Loan Facility (other than final maturity) are not the same as the terms of the Term A-1 Facility, the Term A-2 Facility or a then existing Incremental Term Loan Facility, such new Incremental Term Loan Facility shall be on terms reasonably acceptable to the Administrative Agent, and (v) the conditions to the making of a Borrowing set forth in clause (e) of this Section 2.16 shall be satisfied or waived. At the time of sending notice to the Administrative Agent of the exercise of such right, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections. Each applicable Lender shall notify the Administrative Agent within the time period specified in Section 2.16(a) whether or not it agrees to participate in the requested Incremental Facility and, if so, whether by an amount equal to, greater than, or less than the portion of the Incremental Facility offered to it. Any Lender not responding within such time period shall be deemed to have declined to participate in the Incremental Facility. Neither the Arrangers nor the Administrative Agent shall have any responsibility for arranging any such Incremental Facility without their prior written consent, and no Lender shall be required to make term loans under the Incremental Facility to facilitate such Incremental Facility.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Borrower and each applicable Lender of the Lenders' responses to each request made hereunder. Subject to the approval of the Administrative Agent (which approval shall not be unreasonably withheld or delayed), the Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel (a "New Lender Joinder Agreement").

(d) Effective Date and Allocations. The Administrative Agent and the Borrower shall determine the effective date (the “Increase Effective Date”) and the final allocation of any such Incremental Facility. The Administrative Agent shall promptly notify the Borrower and the applicable Lenders of the final allocation of such Incremental Facility and the Increase Effective Date.

(e) Conditions to Effectiveness of Increase. As a condition precedent to each Incremental Facility:

(i) the Borrower shall deliver to the Administrative Agent a certificate of the Borrower dated as of the Increase Effective Date signed by a Responsible Officer (x) certifying and attaching the resolutions adopted by each of the Credit Parties approving or consenting to such Incremental Facility, and (y) certifying that (1) the representations and warranties contained in Article V and in the other Loan Documents are true and correct in all material respects (or, in the case of the representations and warranties in Section 5.22 or any representation and warranty that is qualified by materiality, in all respects) on and as of the Increase Effective Date (other than the representations in Section 5.05(c) and Section 5.18, which shall be made only as of the Closing Date), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, in the case of the representations and warranties in Section 5.22 or any representation and warranty that is qualified by materiality, in all respects) as of such earlier date, and except that for purposes of this Section 2.16, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (2) as of the Increase Effective Date, and immediately after giving effect to such Incremental Facility, no Default exists;

(ii) the Administrative Agent shall have received (x) a New Lender Joinder Agreement duly executed by the Borrower and each Eligible Assignee, if any, that is becoming a Lender in connection with such Incremental Facility, which New Lender Joinder Agreement shall be acknowledged and consented to in writing by the Administrative Agent and (y) written confirmation from each existing Lender, if any, participating in such Incremental Facility of the amount by which its Commitments and/or Loans will be increased;

(iii) upon the reasonable request of any Lender made at least ten (10) days prior to the applicable Increase Effective Date, the Borrower shall have provided to such Lender the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including the Patriot Act, in each case at least five (5) days prior to the applicable Increase Effective Date;

(iv) if the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, the Borrower shall deliver to each Lender that so requests, in a form reasonably acceptable to such Lender, a Beneficial Ownership Certification in relation to the Borrower at least five days prior to the applicable Increase Effective Date;

(v) the Borrower shall provide a Note to any new Lender joining on the Increase Effective Date, if requested;

(vi) if requested by the Administrative Agent or any Lender participating in such Incremental Facility, the Administrative Agent shall have received a favorable opinion of counsel

(which counsel shall be reasonably acceptable to Administrative Agent), addressed to Administrative Agent and each Lender, as to such customary matters concerning the increase in the aggregate amount of the Facilities as Administrative Agent may reasonably request;

(vii) the Borrower shall pay such fees to the Administrative Agent, for the benefit of the Lenders providing such Incremental Facility as determined by the Borrower and the Lenders providing such Incremental Facility at the time of such Incremental Facility;

(viii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent or the Lenders providing such Incremental Facility reasonably may require; and

(ix) such other conditions of the Lenders providing such Incremental Facility shall be satisfied or waived.

(f) Settlement Procedures. On each Increase Effective Date, promptly following fulfillment of the conditions set forth in clause (e) of this Section 2.16, the Administrative Agent shall notify the Lenders of the occurrence of the Incremental Facility effected on such Increase Effective Date and each participating Lender shall, upon satisfaction or waiver of the applicable conditions set forth in Section 4.02, make a term loan to the Borrower equal to its allocated portion of such Incremental Facility.

(g) Conflicting Provisions. This Section 2.16 shall supersede any provisions in Sections 2.14 or 10.01 to the contrary.

(h) Amendments. If any amendment to this Agreement is reasonably requested to give effect to or to evidence any Incremental Term Loan Facility pursuant to and in accordance with this Section 2.16, then such amendment shall be effective if executed by the Credit Parties, each Lender providing such Incremental Term Loan Facility and the Administrative Agent.

## **2.17 [Reserved].**

## **2.18 Defaulting Lenders.**

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.01.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof

as required by this Agreement, as determined by the Administrative Agent; third, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; fourth, so long as no Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and fifth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.18(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while such Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

### ARTICLE III.

#### **TAXES, YIELD PROTECTION AND ILLEGALITY**

##### **3.01 Taxes.**

(a) Payments Free of Taxes. (i) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent or the Borrower, as applicable) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or the Borrower, then the Administrative Agent or the Borrower shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(i) If the Borrower or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to Section 3.01(e), (B) the Administrative

Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) of Indemnified Taxes or Other Taxes the Administrative Agent or the applicable Lender, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(ii) If the Borrower or the Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) the Borrower or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to Section 3.01(e), (B) the Borrower or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) of Indemnified Taxes or Other Taxes the Administrative Agent or the applicable Lender, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law.

(c) Tax Indemnification.

(i) Without limiting the provisions of subsection (a) or (b) above, the Borrower shall, and does hereby, indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof, within ten (10) Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) paid by the Administrative Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, to the extent such Indemnified Taxes or Other Taxes are payable in respect of any payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document or otherwise with respect to any Loan Document or activities related thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. The Borrower shall, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within ten (10) Business Days after demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii) below.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender shall, and does hereby, indemnify and shall make payment in respect thereof, within ten (10) Business Days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the

Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (y) the Administrative Agent and the Borrower, as applicable, any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent or the Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii). The agreements in this clause (ii) shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Facilities and the repayment, satisfaction or discharge of all other Obligations.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders.

(i) Each Recipient shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not payments made by the Borrower hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Recipient's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Borrower pursuant to this Agreement or otherwise to establish such Recipient's status for withholding tax purposes in the applicable jurisdictions. Notwithstanding the previous sentence, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 3.01(e)(ii)(A) and (ii)(B) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that a Borrower is resident for tax purposes in the United States:

(A) any Recipient that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent executed copies of IRS Form W-9 or such other documentation or information prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent, as the case may be, to determine that such Lender is not subject to backup withholding or information reporting requirements; and

(B) each Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

- (I) duly completed executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable) claiming eligibility for benefits of an income tax treaty to which the United States is a party,
- (II) duly completed executed copies of IRS Form W-8ECI,
- (III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit E-1 to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) duly completed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable),
- (IV) to the extent a Foreign Lender is not the beneficial owner of payments made under any Loan Documents, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-4 on behalf of each such direct and indirect partner, or
- (V) any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in withholding tax duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and
- (VI) each Recipient shall deliver to the Administrative Agent and the Borrower at the time or times prescribed by applicable Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law or reasonably requested by the Administrative Agent or the Borrower sufficient for the Administrative Agent and the Borrower to comply with their obligations under FATCA and to determine whether payments to such

Recipient are subject to withholding tax under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (VI), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Recipient shall promptly (A) notify the Borrower and the Administrative Agent of any change in circumstances that would modify or render invalid any claimed exemption or reduction, and (B) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Law of any jurisdiction that the Borrower or the Administrative Agent make any withholding or deduction for taxes from amounts payable to such Lender.

(iv) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Law, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses incurred by the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the Administrative Agent or any Lender be required to pay any amount to a Credit Party pursuant to this subsection the payment of which would place the Administrative Agent or such Lender in a less favorable net after-Tax position than the Administrative Agent or such Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

### **3.02 Illegality.**

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to perform any of its obligations hereunder or make, maintain or fund or charge interest with respect to any Loan or to determine or charge interest rates based upon the Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable interbank market (each an “Affected Eurocurrency Rate Loan”), then (a) such Lender shall promptly give

written notice of such circumstances to the Borrower through the Administrative Agent, which notice shall be withdrawn whenever such circumstances no longer exist, (b) the obligation of such Lender hereunder to make, maintain, fund or charge interest with respect to Affected Eurocurrency Rate Loans, continue Affected Eurocurrency Rate Loans as such and to convert a Base Rate Loan to an Affected Eurocurrency Rate Loan shall forthwith be suspended and, until such time as it shall no longer be unlawful for such Lender to make, maintain, fund or charge interest with respect to such Affected Eurocurrency Rate Loans, such Lender shall then have a commitment only to make a Base Rate Loan when an Affected Eurocurrency Rate Loan is requested, (c) such Lender's Loans then outstanding as Affected Eurocurrency Rate Loans, if any, shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by Law and (d) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. If any such conversion or prepayment of an Affected Eurocurrency Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.05.

### **3.03 Inability to Determine Rates.**

If (a) in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof, the Administrative Agent determines that (i) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such Eurocurrency Rate Loan, or (ii) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan (any such Eurocurrency Rate Loans, "Impacted Loans"), (b) in connection with an existing or proposed Base Rate Loan, the Administrative Agent determines that adequate and reasonable means do not exist for determining the Eurocurrency Rate component of the Base Rate, if any, or (c) the Required Lenders determine that for any reason the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended to the extent of the affected Eurocurrency Rate Loans or Interest Periods, and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of the Base Rate, the utilization of the Eurocurrency Rate component in determining the Base Rate, if any, shall be suspended, in each case until the Administrative Agent upon the instruction of the Required Lenders revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans (to the extent of the affected Eurocurrency Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Base Rate Loan in the amount specified therein.

Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (a) of this section, the Administrative Agent, in consultation with the Borrower and the affected Lenders, may establish an alternative interest rate for the Impacted Loans, in which case such alternative rate of interest shall apply with respect to the Impacted Loans until (1) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (a) of this section, (2) the Required Lenders notify the Administrative Agent and the Borrower that such alternative interest rate does not adequately and

fairly reflect the cost to such Lenders of funding the Impacted Loans, in which case the Administrative Agent, in consultation with the Borrower and the affected Lenders, may establish a different alternative interest rate for the Impacted Loans, or (3) any affected Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Borrower written notice thereof.

### **3.04 Increased Costs; Reserves on Eurocurrency Rate Loans.**

(a) Increased Costs Generally. If any Change in Law shall:

- (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e));
- (ii) subject any Lender to any Taxes of any kind whatsoever with respect to this Agreement or any Eurocurrency Rate Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b), (d) and (e) of the definition of Excluded Taxes and (C) Connection Income Taxes);
- (iii) impose on any Lender or the applicable interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurocurrency Rate Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered. The Borrower shall not be required to pay such additional amounts unless such amounts are the result of requirements imposed generally on lenders similar to such Lender and not the result of some specific reserve or similar requirement imposed on such Lender as a result of such Lender's special circumstances.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth in reasonable detail the basis for and calculation of the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower, in detail sufficient to enable the Borrower to verify the computation thereof, shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof. Any amounts requested to be payable pursuant to this Section 3.04 shall be requested in good faith (and not on an arbitrary and capricious basis) and consistent with similarly situated customers of the applicable Lender after consideration of factors as such Lender then reasonably determines to be relevant.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than three months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the three month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Additional Reserve Requirements. The Borrower shall pay to each Lender, (i) so long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), and (ii) so long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable ten (10) Business Days from receipt of such notice.

### **3.05 Compensation for Losses.**

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense (other than loss of anticipated profits) incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Eurocurrency Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurocurrency Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13.

The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing, including without limitation, any loss or expense arising from the termination of any foreign exchange contract.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the London interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

### **3.06 Mitigation Obligations; Replacement of Lenders.**

(a) Designation of a Different Lending Office. Each Lender may make any Loan to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Loan in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 10.13.

### **3.07 LIBOR Successor Rate.**

(a) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to Borrower) that the Borrower or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining LIBOR for any requested Interest Period, including because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the “Scheduled Unavailability Date”), or

(iii) syndicated loans currently being executed, or that include language similar to that contained in this Section 3.07, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then, reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Borrower may amend this Agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a “LIBOR Successor Rate”), together with any proposed LIBOR Successor Rate Conforming Changes and any such amendment shall become effective at 5:00 p.m. (New York time) on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders do not accept such amendment.

(b) If no LIBOR Successor Rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, (to the extent of the affected Eurocurrency Rate Loans or Interest Periods), and (y) the Eurocurrency Rate component shall no longer be utilized in determining the Base Rate. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans (to the extent of the affected Eurocurrency Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans (subject to the foregoing clause (y)) in the amount specified therein

Notwithstanding anything else herein, any LIBOR Successor Rate that is adopted in accordance herewith shall provide that in no event shall such rate be less than zero for purposes of this Agreement.

(c) This Section 3.07 shall supersede any provisions in Section 10.01 to the contrary.

### **3.08 Survival.**

All of the Borrower’s obligations under this Article III shall survive termination of the Facilities, repayment of all other Obligations hereunder and resignation of the Administrative Agent.

## **ARTICLE IV.**

### **CONDITIONS PRECEDENT TO BORROWINGS**

#### **4.01 Conditions of Initial Borrowing.**

The effectiveness of this Agreement and the obligation of each Lender to make its initial Loans hereunder on the Closing Date are subject to satisfaction or waiver of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies or electronic copies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance reasonably satisfactory to the Administrative Agent:

(i) executed counterparts of this Agreement, executed and delivered by the Administrative Agent, the Borrower, the Guarantor and each Lender listed on Schedule 2.01;

(ii) a Term A-1 Note executed by the Borrower in favor of each Term A-1 Lender requesting a Term A-1 Note, and a Term A-2 Note executed by the Borrower in favor of each Term A-2 Lender requesting a Term A-2 Note;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents;

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Credit Party is duly organized or formed, and that each Credit Party is validly existing, in good standing and qualified to engage in business in its state of organization and in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(v) (A) favorable opinions of Latham & Watkins LLP, counsel to the Credit Parties, addressed to the Administrative Agent and each Lender and (B) favorable opinions of in-house counsel to Ventas, addressed to the Administrative Agent and each Lender;

(vi) a certificate signed by a Responsible Officer certifying (A) that the conditions specified in Section 4.02 have been satisfied; (B) the current Debt Ratings; and (C) that, as of the date of the Closing Date, the Borrower is in pro forma compliance with the financial covenants contained in Section 7.10 (and attaching the computations in reasonable detail satisfactory to the Administrative Agent); and

(vii) evidence that, substantially concurrently with the Closing Date, all Indebtedness and other obligations under or in connection with the Existing Term Loan Agreement (including without limitation all unpaid principal, interest, fees, expenses and other amounts owing thereunder or in connection therewith) will be repaid in full and all commitments to lend thereunder will be terminated.

(b) Any fees required to be paid by the Borrower on or prior to the Closing Date pursuant to the Loan Documents and all expenses required to be reimbursed by the Borrower on or prior to the Closing Date pursuant to the Loan Documents shall have been paid, provided that invoices (which invoice may be in summary form) for such expenses have been presented to the Borrower a reasonable period of time (and in any event not less than two (2) Business Days) prior to the Closing Date (including, unless waived by the

Administrative Agent, all reasonable, documented, out-of-pocket fees, charges and disbursements of counsel (including any local counsel) to the Administrative Agent, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent)).

(c) Upon the reasonable request of any Lender made at least ten (10) days prior to the Closing Date, the Borrower shall have provided to such Lender the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including the Patriot Act, in each case at least five (5) days prior to the Closing Date.

(d) If the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, the Borrower shall deliver to each Lender that so requests, in a form reasonably acceptable to such Lender, a Beneficial Ownership Certification in relation to the Borrower at least five (5) days prior to the Closing Date.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, (i) this Agreement and each other document to which it is a party or which it has reviewed or (ii) any other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

#### **4.02 Conditions to All Borrowings.**

The obligation of each Lender to honor any Request for Borrowing (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Credit Parties contained in Article V or any other Loan Document, or which are contained in any document required to be furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (or, in the case of the representations and warranties in Section 5.22 or any representation and warranty that is qualified by materiality, in all respects) on and as of the date of such Borrowing (other than the representations in Section 5.05(c) and Section 5.18, which shall be made only as of the Closing Date), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, in the case of the representations and warranties in Section 5.22 or any representation and warranty that is qualified by materiality, in all respects) as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) No Default shall exist on the date of such Borrowing, or would result from such proposed Borrowing or from the application of the proceeds thereof.

(c) The Administrative Agent shall have received a Request for Borrowing in accordance with the requirements hereof.

Each Request for a Borrowing (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Borrowing.

## **ARTICLE V.**

### **REPRESENTATIONS AND WARRANTIES**

The Credit Parties represent and warrant to the Administrative Agent and the Lenders that:

#### **5.01 Existence, Qualification and Power.**

Each Credit Party and its Subsidiaries (a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and (c) is duly qualified to do business and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification; except in each case referred to in clause (a) (solely as to Subsidiaries that are not the Borrower), (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

#### **5.02 Authorization; No Contravention.**

The execution, delivery and performance by each Credit Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of such Credit Party's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Credit Party is party or affecting such Credit Party or the properties of such Credit Party or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Credit Party or its property is subject; or (c) violate any Law; except in each case referred to in clause (b) or (c), as contemplated hereunder or to the extent such conflict, breach, contravention or violation, or creation of any such Lien or required payment could not reasonably be expected to have a Material Adverse Effect.

#### **5.03 Governmental Authorization; Other Consents.**

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Credit Parties of this Agreement or any other Loan Document, except for such approvals, consents, exemptions, authorizations or other actions or notices or filings which have already been completed or obtained.

#### **5.04 Binding Effect.**

This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by the Credit Parties party thereto. This Agreement constitutes, and each

other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Credit Parties party thereto, enforceable against such Credit Parties in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights generally and except that the remedy of specific performance and other equitable remedies are subject to judicial discretion.

#### **5.05 Financial Statements; No Material Adverse Effect.**

(a) The Annual Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Consolidated Group as of the date thereof and its results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Guarantor and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and material Indebtedness, in each case, to the extent required by GAAP.

(b) In respect of any unaudited consolidated balance sheet of the Consolidated Group delivered hereunder after the Closing Date and the related unaudited consolidated statements of income or operations, equity and cash flows for the fiscal quarter ended on such date, such financial statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein or as otherwise permitted pursuant to Section 1.03, (ii) fairly present the financial condition of the Consolidated Group as of the date thereof and its results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Guarantor and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and material Indebtedness, in each case, to the extent required by GAAP.

(c) Since the date of the Annual Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

#### **5.06 Litigation.**

There are no actions, suits, proceedings, claims, investigations or disputes pending or, to the knowledge of the Credit Parties, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against a Credit Party or any Subsidiary or against any of their properties or revenues that (a) affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) as to which there is a reasonable possibility of an adverse determination, and, if so adversely determined, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

#### **5.07 [Reserved].**

#### **5.08 Ownership of Property and Valid Leasehold Interests; Liens.**

(a) Each of the Credit Parties and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its

business, except for such defects in title or valid leasehold interests as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

- (b) The property of the Credit Parties and their Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.01.

#### **5.09 Environmental Compliance.**

There are no existing violations of Environmental Laws or claims alleging potential liability or responsibility for the violation of any Environmental Law that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

#### **5.10 Insurance.**

The Credit Parties and their Subsidiaries maintain or require the tenants or managers of their owned properties to maintain insurance with respect to their owned properties with insurance companies, in such amounts, with such deductibles and covering such risks as are customarily carried under similar circumstances by companies engaged in similar businesses and owning similar properties in localities where the Credit Parties or the applicable Subsidiary operates.

#### **5.11 Taxes.**

The Credit Parties and their Subsidiaries have filed all Federal and other material tax returns and reports required to be filed, and have paid all Federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person, or except where the failure to take any of the foregoing actions could not reasonably be expected to cause, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the Credit Parties, there is no proposed tax assessment against any Credit Party or any Subsidiary that would, if made, have a Material Adverse Effect.

#### **5.12 ERISA Compliance.**

Except as has resulted in, or would not reasonably be expected to have, a Material Adverse Effect:

(a) Each Plan is in compliance with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination or opinion letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of the Borrower, nothing has occurred that could reasonably be expected to prevent, or cause the loss of, such qualification. The Borrower and each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred that, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

(d) Neither the Borrower nor any Guarantor is or will be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans or the Commitments.

**5.13 Margin Regulations; Investment Company Act; REIT Status.**

(a) No Credit Party is engaged nor will any Credit Party engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) No Credit Party is, nor is any Credit Party required to be, registered as an “investment company” under the Investment Company Act of 1940.

(c) The Guarantor qualifies as a REIT.

**5.14 Disclosure.**

No report, financial statement, certificate or other information, in each case, furnished in writing by or on behalf of any Credit Party or any Subsidiary to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished), contains, as of the date of delivery of such report, financial statement, certificate or other information, any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Credit Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that actual results may differ materially from projections).

**5.15 Compliance with Laws.**

Each of the Credit Parties and each Subsidiary is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

**5.16 Sanctions Concerns.**

No Credit Party, nor any Subsidiary, nor, to the knowledge of the chief executive officer, chief financial officer or general counsel of the Guarantor, any director, officer or employee thereof is an individual or entity that is (a) currently the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List or (c) with respect to any Credit Party or Subsidiary, located, organized or resident in a Designated Jurisdiction and with respect to any individual, resident in any Designated Jurisdiction.

**5.17 Use of Proceeds.**

The proceeds of the Loans hereunder will be used solely for the purposes specified in Section 6.11. No proceeds of the Loans hereunder will be used for the acquisition of another Person unless the board of directors (or other comparable governing body) or stockholders (or other equity owners), as appropriate, of such other Person has approved such acquisition.

**5.18 Solvency.**

Immediately after giving effect to the Borrowing made on the Closing Date, (a) the fair value of the assets of the Credit Parties, taken as a whole, will exceed their debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of the Credit Parties, taken as a whole, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and mature; and (c) no Credit Party will have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the Closing Date.

**5.19 Taxpayer Identification Number.**

Each Credit Party's true and correct U.S. taxpayer identification number, if any, is set forth on Schedule 5.19.

**5.20 EEA Financial Institutions.**

No Credit Party is an EEA Financial Institution.

**5.21 Anti-Money Laundering; Anti-Corruption Laws.**

(a) Each Credit Party, its Subsidiaries and, to the knowledge of the chief executive officer, chief financial officer or general counsel of the Guarantor, each director, officer or employee thereof are in compliance in all material respects with any applicable Anti-Money Laundering Law, except in such instances in which the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

(b) To the knowledge of the chief executive officer, chief financial officer or general counsel of the Guarantor, for the past two years, each Credit Party and its Subsidiaries have conducted their businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the Corruption of Foreign Public Officials Act (Canada) and other similar anti-corruption legislation in other jurisdictions to the extent applicable to, and binding on, the Credit Parties, and the Guarantor has instituted and maintains policies and procedures required, in its reasonable judgment, to comply in all material respects with such laws.

**5.22 Beneficial Ownership.**

As of the Closing Date and each Increase Effective Date, the information included in each Beneficial Ownership Certification delivered to the Administrative Agent and/or any Lender pursuant to Section 4.01(d) or Section 2.16(e)(iv), as applicable, is true and correct in all respects.

**ARTICLE VI.**

**AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, each Credit Party shall (or, solely in the case of the covenant set forth in Section 6.12, the Guarantor shall), and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.12) cause each Subsidiary to:

**6.01 Financial Statements.**

Deliver to the Administrative Agent (for distribution to each Lender):

(a) as soon as available, but in any event within five (5) Business Days following the date the Guarantor is required to file its Form 10-K with the SEC (without giving effect to any extension of such due date, whether obtained by filing the notification permitted by Rule 12b-25 or any successor provision thereto or otherwise) (commencing with the fiscal year ending December 31, 2018), a consolidated balance sheet of the Consolidated Group as at the end of such fiscal year, and the related consolidated statements of income or operations, equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable securities laws; and

(b) as soon as available, but in any event within five (5) Business Days following the date the Guarantor is required to file its Form 10-Q with the SEC (without giving effect to any extension of such due date, whether obtained by filing the notification permitted by Rule 12b-25 or any successor provision thereto or otherwise) (commencing with the fiscal quarter ending June 30, 2018), an unaudited consolidated balance sheet of the Consolidated Group as at the end of such fiscal quarter, and the related unaudited consolidated statements of income or operations for such fiscal quarter and for the portion of the Guarantor's fiscal year then ended, and the related unaudited statements of stockholders' equity and cash flows for the portion of the Guarantor's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, as applicable, all in reasonable detail, such consolidated statements to be certified by a Responsible Officer as fairly presenting the financial condition, results of operations, equity and cash flows of the Guarantor and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

As to any information contained in materials furnished pursuant to Section 6.02(c), the Credit Parties shall not be separately required to furnish such information under clause (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Credit Parties to

furnish the information and materials described in clauses (a) and (b) above at the times specified therein.

**6.02 Certificates; Other Information.**

Deliver to the Administrative Agent (for distribution to each Lender):

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b) (commencing with the delivery of the financial statements for the fiscal quarter ending June 30, 2018), a duly completed Compliance Certificate signed by a Responsible Officer;

(b) promptly after any request by the Administrative Agent, copies of any management letters submitted to the board of directors (or the audit committee of the board of directors) of the Guarantor by independent accountants in connection with an audit of the accounts of the Guarantor (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Guarantor, and copies of all annual, regular, periodic and special reports and registration statements that the Guarantor may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly, and in any event within five (5) Business Days after receipt thereof by the Guarantor or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation by such agency regarding financial or other operational results of the Guarantor or any Subsidiary thereof;

(e) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation; and

(f) promptly, such additional information regarding the business, financial or corporate affairs of the Guarantor or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Guarantor posts such documents, or provides a link thereto, on the Guarantor’s website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Guarantor’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent (by telecopier or electronic mail), which shall notify each Lender, of the posting of any such documents and, upon request, provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies)

of such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Credit Parties hereby acknowledge that (a) the Administrative Agent, the Bookrunners and/or the Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Credit Parties hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on IntraLinks, Syndtrak, Clear Par or a similar electronic transmission system (the “Platform”) and (b) certain of the Lenders (each, a “Public Lender”) may have personnel that do not wish to receive material non-public information with respect to the Credit Parties or their Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons’ securities. The Credit Parties hereby agree that so long as any Credit Party is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof, (x) by marking Borrower Materials “PUBLIC,” the Credit Parties shall be deemed to have authorized the Administrative Agent, the Bookrunners, the Arrangers and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Credit Parties or their securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07) (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Investor;” and (z) the Administrative Agent, the Bookrunners and the Arrangers shall treat any Borrower Materials that are not marked “PUBLIC” or that are marked “PRIVATE” as being suitable only for posting on a portion of the Platform not designated “Public Investor.” Notwithstanding the foregoing, the Credit Parties shall be under no obligation to mark any Borrower Materials “PUBLIC.”

### **6.03 Notices.**

Promptly following knowledge thereof by a Responsible Officer, notify the Administrative Agent (which shall notify each Lender) of:

- (a) the occurrence of any Default;
- (b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect;
- (c) the information set forth in Section 6.13 at the times required therein;
- (d) any material change in accounting policies or financial reporting practices by the Guarantor or any Subsidiary; and
- (e) any announcement by Moody’s, S&P or Fitch of any change or possible adverse change in a Debt Rating.

Each notice pursuant to this Section 6.03 (other than Section 6.03(e)) shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Credit Parties have taken and propose to take with respect thereto. Each notice pursuant to

Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

#### **6.04 Payment of Taxes.**

Pay and discharge as the same shall become due and payable, all of its Federal and other material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person, in each case in this Section 6.04 except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

#### **6.05 Preservation of Existence, Etc.**

- (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction not prohibited by Section 7.04, or to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and
- (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of that could reasonably be expected to have a Material Adverse Effect.

#### **6.06 Maintenance of Properties.**

- (a) Maintain, preserve and protect, or make contractual or other provisions to cause to maintain, preserve or protect, all of its properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted, in each case except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and
- (b) make, or make contractual or other provisions to cause to be made, all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

#### **6.07 Maintenance of Insurance.**

Maintain or use reasonable efforts to cause the tenants under all leases to which it is a party as landlord or the manager of its properties to maintain insurance with respect to its owned properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons (including with respect to any captive insurance subsidiary or self-insurance, a system or systems of self-insurance and reinsurance which accords with the practices of similar businesses).

#### **6.08 Compliance with Laws.**

Comply in all material respects with the requirements of all Laws (including, without limitation, Environmental Laws) and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree

is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

**6.09 Books and Records.**

Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Credit Party or Subsidiary, as the case may be.

**6.10 Inspection Rights.**

Subject to (x) rights of tenants, (y) applicable health and safety laws, and (z) except to the extent disclosure could reasonably be expected to contravene attorney client privilege or similar protection or violate any confidentiality or privacy obligation or otherwise contravene applicable law, permit representatives and independent contractors of the Administrative Agent and each Lender (in each case of a Lender, coordinated through the Administrative Agent) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (provided that the Guarantor and Borrower shall have the right to participate in any such discussions), all at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that (i) absent an Event of Default, the Credit Parties shall only be required to pay for one such visit and inspection in any twelve (12) month period and (ii) when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

**6.11 Use of Proceeds.**

Use proceeds from the Loans (a) to refinance existing Indebtedness and (b) for working capital, capital expenditures, and other general corporate purposes, including Investments permitted by Section 7.02, dividends and distributions, and acquisitions and developments, not in contravention of any of the Loan Documents or any applicable Law.

**6.12 REIT Status.**

Maintain Ventas' status as a REIT under the Code.

**6.13 Employee Benefits.**

(a) Comply with the applicable provisions of ERISA and the Code with respect to each Plan, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) furnish to the Administrative Agent (x) within five (5) Business Days after any Responsible Officer or any ERISA Affiliate knows or has reason to know that an ERISA Event has occurred that, alone or together with any other ERISA Event, could reasonably be expected to result in liability of Ventas Realty or any of its ERISA Affiliates in an aggregate amount exceeding the Threshold Amount or the imposition of a Lien, a statement setting forth details as to such ERISA Event and the action, if any, that Ventas Realty or ERISA Affiliate proposes to take with respect thereto, and (y) upon request by the Administrative Agent, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Ventas Realty or any ERISA Affiliate with the IRS with respect to each Pension Plan; (2) the most recent actuarial valuation

report for each Pension Plan; (3) all notices received by Ventas Realty or any ERISA Affiliate from a Multiemployer Plan sponsor or any governmental agency concerning an ERISA Event; and (4) such other documents or governmental reports or filings relating to any Plan as the Administrative Agent shall reasonably request.

#### **6.14 Anti-Corruption.**

Conduct its businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions to the extent applicable to, and binding on, the Credit Parties and maintain policies and procedures required, in its reasonable judgment, to comply in all material respects with such laws.

### **ARTICLE VII.**

#### **NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, each Credit Party shall not, nor shall it permit any Subsidiary (except that Section 7.09 shall apply only to Wholly-Owned Subsidiaries) to, directly or indirectly:

##### **7.01 Liens.**

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens pursuant to any Loan Document;

(b) Liens securing Indebtedness permitted under Section 7.03;

(c) Liens for Taxes not yet due or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than thirty (30) days or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person;

(e) pledges or deposits or other Liens arising in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, or to secure statutory obligations, other than any Lien imposed by ERISA;

(f) Liens and rights of setoff of banks and securities intermediaries in respect of deposit accounts and securities accounts maintained in the ordinary course of business;

(g) the interests of lessees and lessors under leases or subleases of, and the interest of managers or operators with respect to, real or personal property made in the ordinary course of business;

- (h) Liens on property where such Credit Party or Subsidiary is insured against such Liens by title insurance;
- (i) Liens on property acquired by a Credit Party or any Subsidiary after the date hereof and that are in place at the time such properties are so acquired and not created in contemplation of such acquisition;
- (j) Liens securing assessments or charges payable to a property owner association or similar entity, which assessments are not yet due and payable or that are being contested in good faith by appropriate proceedings diligently conducted, and for which adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person;
- (k) Liens securing assessment bonds, so long as such Credit Party or Subsidiary is not in default under the terms thereof;
- (l) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business;
- (m) easements, rights-of-way, restrictions and other similar encumbrances affecting real property that, in the aggregate, are not substantial in amount, and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (n) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h) or securing appeal or other surety bonds related to such judgments;
- (o) Liens solely on any cash earnest money deposits made by a Credit Party or any Subsidiary in connection with any letter of intent or purchase agreement;
- (p) assignments to a reverse Section 1031 exchange trust;
- (q) licenses of intellectual property granted in the ordinary course of business;
- (r) Liens on assets of a Credit Party or any Subsidiary securing obligations under Swap Contracts; and
- (s) precautionary UCC filings in respect of operating leases.

## **7.02 Investments.**

Make or allow Investments consisting of:

- (a) unimproved land holdings and construction in progress to exceed, in the aggregate, for all Investments under this clause (a) at any one time outstanding, thirty-five percent (35%) of Consolidated Gross Asset Value; and
- (b) Investments in Joint Ventures to exceed, in the aggregate, for all Investments under this clause (b) at any one time outstanding, twenty-five percent (25%) of Consolidated Gross Asset Value.

For purposes of this Section 7.02, the aggregate Investment in Joint Ventures will be valued at book value as shown on the consolidated balance sheet of the Guarantor, as determined in accordance with GAAP.

**7.03 Indebtedness.**

Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents; and

(b) other Indebtedness; provided that (i) at the time of the incurrence of such Indebtedness and after giving effect thereto (including any Liens associated therewith) no Event of Default has occurred and is continuing or would result therefrom and (ii) with respect to obligations of a Credit Party in respect of Swap Contracts, such Swap Contracts shall be entered into in order to manage existing or anticipated risk and not for speculative purposes.

**7.04 Fundamental Changes.**

Merge, dissolve, liquidate, amalgamate, consolidate with or into another Person, except that, so long as no Default exists or would result therefrom:

(a) any Person (other than the Borrower) may merge with or into the Guarantor in a transaction in which the Guarantor shall be the continuing or surviving Person;

(b) any Person (other than the Guarantor) may merge with or into, consolidate with or amalgamate with the Borrower in a transaction in which the Borrower shall be the continuing or surviving Person;

(c) any Person may merge with or into, consolidate with or amalgamate with any Subsidiary (other than the Borrower) in a transaction in which the continuing or surviving Person shall be a Subsidiary;

(d) any Subsidiary (other than the Borrower) may merge with or into, consolidate with or amalgamate with any Person in order to consummate an Investment permitted by Section 7.02 or a Disposition;

(e) any Subsidiary (other than the Borrower) may merge into the Guarantor or any other Subsidiary; and

(f) any Subsidiary may liquidate or dissolve if the Credit Parties determine in good faith that such liquidation or dissolution is in the best interests of the Credit Parties and is not materially disadvantageous to the Lenders.

**7.05 [Reserved].**

**7.06 Restricted Payments.**

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so; provided that,

(a) the Guarantor and each Subsidiary may declare or make, directly or indirectly, any Restricted Payment required to qualify and maintain the Guarantor's qualification as a REIT;

(b) the Guarantor and each Subsidiary may declare or make, directly or indirectly, any Restricted Payment required to avoid the payment of Federal or state income or excise tax;

(c) so long as no Default shall have occurred and be continuing or would result therefrom, the Guarantor and each Subsidiary may purchase, redeem, retire, acquire, cancel or terminate the Guarantor's Equity Interests so long as after giving effect thereto the Credit Parties are in compliance on a Pro Forma Basis with the requirements of Section 7.10(e);

(d) any Subsidiary may at any time make Restricted Payments to any member of the Consolidated Group and, solely to the extent distributions to other holders of its Equity Interests are required by its Organization Documents, to such other holders of Equity Interests;

(e) any member of the Consolidated Group may at any time declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests in such Person;

(f) so long as no Default shall have occurred and be continuing or would result therefrom, the Guarantor and each Subsidiary may make any payment on account of any return of capital to the Guarantor's stockholders, partners or members (or the equivalent Person thereof); and

(g) the Guarantor and each Subsidiary may declare or make, directly or indirectly, any Restricted Payment within sixty days after the date of declaration thereof, if on the date of declaration of such payment, such payment would have been permitted pursuant to another clause of this Section 7.06 and no Default under Section 8.01(a), (f) or (g) shall have occurred and be continuing.

#### **7.07 Change in Nature of Business.**

Engage in any material line of business substantially different from those lines of business conducted by the Credit Parties and their Subsidiaries on the date hereof or any business substantially related or incidental thereto.

#### **7.08 Transactions with Affiliates.**

Enter into any transaction of any kind with any Affiliate of a Credit Party, whether or not in the ordinary course of business, except:

(a) transactions on fair and reasonable terms substantially as favorable to the Credit Party or such Subsidiary as would be obtainable by the Credit Party or such Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate;

(b) payments of compensation, perquisites and fringe benefits arising out of any employment or consulting relationship in the ordinary course of business;

(c) payments of Restricted Payments permitted by this Agreement;

(d) transactions between or among the Guarantor, the Borrower and any Wholly-Owned Subsidiary; or

(e) transactions in the ordinary course of business that comply with the requirements of the North American Securities Administrators Association's Statement of Policy of Real Estate Investment Trusts.

#### **7.09 Sanctions; Anti-Money Laundering; Anti-Corruption.**

- (a) Use any Borrowing or the proceeds of any Borrowing, or lend, contribute or otherwise make available such Borrowing or the proceeds of any Borrowing to any Person, for the purpose of funding any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, in each case, except to the extent permitted for a Person required to comply with Sanctions.
- (b) Knowingly engage in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds from any category of prohibited offenses designated in any law, regulation or other binding measure by the Organisation for Economic Cooperation and Development's Financial Action Task Force on Money Laundering (solely to the extent such organization has jurisdiction over the Credit Parties and such law, regulation or other measure is applicable to, and binding on, the Credit Parties) or violate in any material respect these laws or any other applicable Anti-Money Laundering Law or knowingly engage in these actions.
- (c) Use the proceeds of any Loan for any purpose which would breach in any material respect the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions to the extent applicable to, and binding on, the Credit Parties.

#### **7.10 Financial Covenants.**

- (a) Consolidated Total Leverage Ratio. Permit the Consolidated Total Leverage Ratio to be greater than sixty percent (60%) as of the end of any fiscal quarter. Notwithstanding the foregoing, the Credit Parties shall be permitted to increase the maximum Consolidated Total Leverage Ratio to sixty five percent (65%) for any fiscal quarter in which a Significant Acquisition occurs and for the three consecutive full fiscal quarters immediately thereafter; provided that in no event shall the Consolidated Total Leverage Ratio exceed sixty five percent (65%) at any time or exceed sixty percent (60%) for more than four consecutive fiscal quarters in any consecutive five fiscal quarter period.
- (b) Consolidated Secured Debt Leverage Ratio. Permit the Consolidated Secured Debt Leverage Ratio to be greater than forty percent (40%) as of the end of any fiscal quarter.
- (c) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio to be less than 1.50 to 1.00 as of the end of any fiscal quarter.
- (d) Consolidated Unsecured Leverage Ratio. Permit the Consolidated Unsecured Leverage Ratio to be greater than sixty percent (60%) as of the end of any fiscal quarter. Notwithstanding the foregoing, the Credit Parties shall be permitted to increase the maximum Consolidated Unsecured Leverage Ratio to sixty five percent (65%) for any fiscal quarter in which a Significant Acquisition occurs and for the three consecutive full fiscal quarters immediately thereafter; provided that in no event shall the Consolidated Unsecured Leverage Ratio exceed sixty five percent (65%) at any time or exceed sixty percent (60%) for more than four consecutive fiscal quarters in any consecutive five fiscal quarter period.
- (e) Consolidated Adjusted Net Worth. Permit the Consolidated Adjusted Net Worth to be, as of the end of any fiscal quarter, less than \$11,564,707,000.

## ARTICLE VIII.

### EVENTS OF DEFAULT AND REMEDIES

#### **8.01 Events of Default.**

Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Credit Parties fail to pay in Dollars (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five (5) Business Days after the same becomes due, any interest on any Loan, or any fee due hereunder, or (iii) within five (5) Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Credit Parties or any of their Subsidiaries fail to perform or observe any term, covenant or agreement contained in any of (i) Section 6.03(b) or Section 6.05 (solely with respect to the Borrower or the Guarantor) or Article VII and such failure continues for five (5) Business Days, (ii) Section 6.02(e) and such failure continues for ten (10) Business Days or (iii) Section 6.03(a) or Section 6.03(d) and such failure continues for fifteen (15) Business Days; or

(c) Other Defaults. The Credit Parties or any of their Subsidiaries fail to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the first to occur of (i) the date upon which a Responsible Officer of any Credit Party obtains knowledge of such failure or (ii) receipt by the Borrower of written notice of such failure from the Administrative Agent (which notice will be given at the request of any Lender); provided that if such failure is of such a nature that can be cured but cannot with reasonable effort be completely cured within thirty (30) days, then such thirty (30) day period shall be extended for such additional period of time (not exceeding ninety (90) additional days) as may be reasonably necessary to cure such failure so long as the Credit Parties or their Subsidiaries, as applicable, commence such cure within such thirty (30) day period and diligently prosecute same until completion; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Credit Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect in any material respect when made or deemed made (or, in the case of the representations and warranties in Section 5.22 or any representation and warranty that is qualified by materiality, shall be incorrect in any respect when made or deemed made) and, with respect to any representation, warranty, certification or statement (other than the representations and warranties in Section 5.22) not known by such Credit Party at the time made or deemed made to be incorrect, the defect causing such representation or warranty to be incorrect when made or deemed made is not removed within thirty (30) days after the first to occur of (i) the date upon which a Responsible Officer of any Credit Party obtains knowledge thereof or (ii) receipt by the Borrower of written notice thereof from the Administrative Agent (which notice will be given at the request of any Lender); or

(e) Cross-Default. (i) Any Credit Party or any Subsidiary (x) fails (after giving effect to any notice or grace periods applicable thereto) to make any required payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Material Recourse Indebtedness or (y) fails to observe or perform any other agreement or condition relating to any such Material Recourse Indebtedness contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, with the giving of notice if

required, such Material Recourse Indebtedness pursuant to the terms thereof to be demanded or to become due or to require such Credit Party or Subsidiary to repurchase, prepay, defease or redeem (automatically or otherwise) or make an offer to repurchase, prepay, defease or redeem such Material Recourse Indebtedness pursuant to the terms thereof, prior to its stated maturity; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which any Credit Party or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Credit Party or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by a Credit Party or such Subsidiary as a result thereof is greater than the Threshold Amount; provided that this clause (e) shall not apply to (i) secured Indebtedness that becomes due and payable as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is assumed or repaid in full when required under the documents providing for such Indebtedness, (ii) any redemption, repurchase, conversion or settlement with respect to any convertible debt security which is consummated in accordance with the terms of such convertible debt security, unless such redemption, repurchase, conversion or settlement results from a default thereunder or an event of the type that constitutes an Event of Default or (iii) any early payment requirement or unwinding or termination with respect to any Swap Contract (A) not arising out of a default by any Credit Party and (B) to the extent that such Swap Termination Value owed has been paid in full by such Credit Party when due; or

(f) Insolvency Proceedings, Etc. Any Credit Party or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged, undismissed or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undischarged, undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Credit Party or any Material Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within thirty (30) days after its issue or levy; or

(h) Judgments. There is entered against any Credit Party or any Material Subsidiary (i) a final non-appealable judgment or order that has not been discharged for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent (x) not covered by independent third-party insurance as to which the insurer does not dispute coverage or (y) for which the applicable Credit Party or Material Subsidiary has not been indemnified), or (ii) any one or more non-monetary final non-appealable judgments that have not been discharged and that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of a Credit Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all of the Obligations, ceases to be in full force and effect; or any Credit Party or any other Person contests in any manner the validity or enforceability of any material provision of any Loan Document; or any Credit Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any material provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) Event of Default under Existing Credit Agreement. There occurs any Event of Default under the Existing Credit Agreement (as such term is defined therein).

For purposes of clauses (f), (g), and (h) above, no Event of Default shall be deemed to have occurred with respect to a Material Group unless the type of event specified therein has occurred with respect to each Subsidiary that is a member of such Material Group.

#### **8.02 Remedies Upon Event of Default.**

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Credit Parties; and

(c) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents;

provided, however, that upon the occurrence of an Event of Default with respect to any Credit Party pursuant to Section 8.01(f) or (g) or the occurrence of an actual or deemed entry of an order for relief with respect to any Credit Party under the Bankruptcy Code of the United States or any comparable provisions of any Debtor Relief Laws, the obligation of each Lender to make Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

#### **8.03 Application of Funds.**

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on

account of the Obligations shall, subject to the provisions of Sections 2.17 and 2.18, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Credit Parties or as otherwise required by Law.

## ARTICLE IX.

### **ADMINISTRATIVE AGENT**

#### **9.01 Appointment and Authority.**

Each of the Lenders hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as otherwise expressly set forth herein, the provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and none of the Credit Parties shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

#### **9.02 Rights as a Lender.**

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor

or in any other advisory capacity for and generally engage in any kind of business with a Credit Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

#### **9.03 Exculpatory Provisions.**

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Credit Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower or a Lender.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document or in any other document delivered hereunder or thereunder or in connection herewith or therewith, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

#### **9.04 Reliance by Administrative Agent.**

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Credit Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

#### **9.05 Delegation of Duties.**

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with negligence or willful misconduct in the selection of such sub-agents.

#### **9.06 Resignation of Administrative Agent.**

The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the approval (not to be unreasonably withheld or delayed) of the Borrower (unless an Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States; provided that if any such potential successor is not classified as a “U.S. person” and a “financial institution” within the meaning of Treasury Regulation Section 1.1441-1, then the Borrower shall have the right to prohibit such potential successor from becoming the Administrative Agent in its reasonable discretion. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders (and subject to the approval (not to be unreasonably withheld or delayed) of the Borrower (unless an Event of Default has occurred and is continuing)), appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if any such potential successor is not classified as a “U.S. person” and a “financial institution” within the meaning of Treasury Regulation Section 1.1441-1, then the Borrower shall have the right to prohibit such potential successor from becoming the Administrative Agent in its reasonable discretion; provided, further that if the retiring Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except

that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security on behalf of the Lenders until such time as a successor Administrative Agent is appointed hereunder) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent (other than such amounts then owed to the retiring Administrative Agent) shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 9.06. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent (other than as provided in Section 3.08 and other than such amounts then owed to the retiring (or retired) Administrative Agent), and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 9.06). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

#### **9.07 Non-Reliance on Administrative Agent and Other Lenders.**

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

#### **9.08 No Other Duties, Etc.**

Anything herein to the contrary notwithstanding, none of the Arrangers, Bookrunners, Syndication Agent, Co-Documentation Agents or Senior Managing Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

#### **9.09 Administrative Agent May File Proofs of Claim.**

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding under any Debtor Relief Law relative to a Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent

(including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.10 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.10 and 10.04.

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

#### **9.10 Collateral and Guaranty Matters.**

The Lenders irrevocably authorize the Administrative Agent:

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Facilities and payment in full of all Obligations (other than contingent indemnification obligations), (ii) that is transferred or to be transferred as part of or in connection with any Disposition, or (iii) as approved in accordance with Section 10.01; and

(b) to release the Guarantor from its obligations under the Guaranty as approved in Section 10.01.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release the Guarantor from its obligations under the Guaranty, pursuant to this Section 9.10.

Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any other Lender. The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Administrative Agent) authorized to act for, any other Lender. The Administrative Agent shall have the exclusive right on behalf of the Lenders to enforce the payment of the principal of and interest on any Loan after the date such principal or interest has become due and payable pursuant to the terms of this Agreement.

#### **9.11 Lender Representations Regarding ERISA.**

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that:

(i) none of the Administrative Agent or any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i) (A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the

Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Administrative Agent or any Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Commitments or this Agreement.

(c) The Administrative Agent and each Arranger hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

## ARTICLE X.

### **MISCELLANEOUS**

#### **10.01 Amendments, Etc.**

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Credit Parties therefrom, shall be effective unless in writing signed by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) and the applicable Credit Parties, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that

(a) only the written consent of each Lender directly affected thereby shall be required to the extent such amendment, waiver or consent shall:

(i) extend the expiration date or increase the amount of the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02);

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document; or

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (ii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder (including pursuant to Section 2.06) or under any other Loan Document; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate; and

(b) the written consent of each Lender shall be required to the extent such amendment, waiver or consent shall:

(i) change Section 2.14 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby;

(ii) change any provision of this Section 10.01 or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(iii) release the Borrower or Guarantor from any Loan Document; or

(iv) waive any condition set forth in Section 4.01(a); and

(c) only the written consent of each Lender under the applicable Facility shall be required to the extent such amendment, waiver or consent shall change the definition of "Required Term A-1 Lenders", "Required Term A-2 Lenders" or "Required Incremental Term Loan Facility Lenders";

(d) only the written consent of (i) the Required Term A-1 Lenders shall be required to the extent such amendment, waiver or consent shall (x) amend, waive or otherwise modify any of the conditions precedent set forth in Section 4.02 with respect to any Term A-1 Loan or (y) impose any greater restriction on the ability of any Term A-1 Lender to assign any of its rights or obligations hereunder, (ii) the Required Term A-2 Lenders shall be required to the extent such amendment, waiver or consent shall (x) amend, waive or otherwise modify any of the conditions precedent set forth in Section 4.02 with respect to any Term A-2 Loan or (y) impose any greater restriction on the ability of any Term A-2 Lender to assign any of its rights or obligations hereunder, and (iii) the Required Incremental Term Loan Facility Lenders shall be required to the extent such amendment, waiver or consent shall (x) amend, waive or otherwise modify any of the conditions precedent set forth in Section 4.02 with respect to any Term Loan to be made under such Incremental Term Loan Facility or (y) impose any greater restriction on the ability of any Lender participating in such Incremental Term Loan Facility to assign any of its rights or obligations hereunder;

and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, (x) affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document or (y) amend or waive, or consent to any departure from, the definitions of LIBOR, LIBOR Screen Rate, LIBOR Successor Rate, LIBOR Successor Rate Conforming Changes or Scheduled Unavailability Date or the provisions of Section 3.07 and (ii) the Engagement Letter may only be amended, and the rights or privileges thereunder may only be waived, in a writing executed by each of the parties thereto.

Notwithstanding anything to the contrary herein,

- (i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender; and
- (ii) the Administrative Agent and the Borrower may, with the consent of the other (but without the consent of any other Person), amend, modify or supplement any Loan Document to correct, amend or cure any ambiguity, inconsistency, omission, mistake or defect or correct any obvious error or any error or omission of an administrative or technical nature so long as such amendment, modification or supplement does not impose additional obligations on any Lender; provided that the Administrative Agent shall promptly give the Lenders notice of any such amendment, modification or supplement.

Notwithstanding the fact that the consent of all of the Lenders is required in certain circumstances as set forth above, (x) each Lender is entitled to vote as such Lender sees fit on any reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersede the unanimous consent provisions set forth herein and (y) the Required Lenders may consent to allow the Borrower to use cash collateral in the context of a bankruptcy or insolvency proceeding.

In addition, notwithstanding the foregoing, the Borrower may, by written notice to the Administrative Agent from time to time, make one or more offers (each, a "Loan Modification Offer") to all the Lenders to make one or more amendments or modifications to (A) allow the maturity of the Loans of the Accepting Lenders (as defined below) to be extended, (B) modify the Applicable Rate and/or fees payable with respect to the Loans of the Accepting Lenders, (C) modify any covenants or other provisions or add new covenants or provisions that are agreed between the Borrower, the Administrative Agent and the Accepting Lenders; provided that such modified or new covenants and provisions are applicable only during periods after the applicable Maturity Date that is in effect on the effective date of such Permitted Amendment, and (D) any other amendment to a Loan Document required to give effect to the Permitted Amendments described in clauses (A), (B) and (C) of this paragraph ("Permitted Amendments"), and any amendment to this Agreement to implement Permitted Amendments, a "Loan Modification Agreement" pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Borrower. Such notice shall set forth (i) the terms and conditions of the requested Permitted Amendments and (ii) the date on which such Permitted Amendments are requested to become effective. Permitted Amendments shall become effective only with respect to the Loans of the Lenders that accept the applicable Loan Modification Offer (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Loans as to which such Lender's acceptance has been made. The Borrower, each other Credit Party and each Accepting Lender shall execute and deliver to the Administrative Agent a Loan Modification Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the acceptance of the Permitted Amendments and the terms and conditions thereof, and the Credit Parties shall also deliver such resolutions, opinions and other documents as reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each of the parties hereto hereby agrees that (1) upon the effectiveness of any Loan Modification Agreement, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to

reflect the existence and terms of the Permitted Amendments evidenced thereby and only with respect to the Loans of the Accepting Lenders as to which such Lenders' acceptance has been made, and (2) any applicable Lender who is not an Accepting Lender may be replaced by the Borrower in accordance with Section 10.13.

Notwithstanding anything herein to the contrary, this Agreement may be amended in connection with any Incremental Term Loan Facility, as set forth in Section 2.16(h).

#### **10.02 Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Credit Parties or the Administrative Agent, to the address, telecopier number, email address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Credit Parties).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender provided pursuant to Article II if such Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient

at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Credit Parties, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Credit Party’s or the Administrative Agent’s transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Credit Party, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Credit Parties and the Administrative Agent may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to a Credit Party or its securities for purposes of United States Federal or state securities Laws.

(e) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic notices and Committed Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in accordance with Section 10.02. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

#### **10.03 No Waiver; Cumulative Remedies.**

No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against a Credit Party and its Subsidiaries or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all of the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from enforcing payments of amounts payable to such Lender pursuant to Sections 3.01, 3.04, 3.05 and 10.04 or from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.14), or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party or any Subsidiary under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.14, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

#### **10.04 Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Bookrunners and the Arrangers (including the reasonable fees, charges and disbursements of one counsel, and, if applicable, one local counsel in each material jurisdiction, for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, due diligence, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all documented out-of-pocket expenses incurred by the Administrative Agent and any Lender (including the fees, charges and disbursements of counsel for the Administrative Agent or any Lender; provided that reimbursement for fees, charges and disbursements of additional counsel of the Lenders will be limited to one additional counsel for all of the Lenders (and one additional counsel per specialty area and one local counsel per applicable jurisdiction), plus additional counsel as necessary in the event of an actual or potential conflict of interest among the Lenders), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section 10.04, or (B) in connection with the Loans made hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender, the Agents and their Affiliates and each Related Party of any of

the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by a Credit Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby (including, without limitation, each Lender’s agreement to make Loans or the use or intended use of the proceeds thereof) or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by a Credit Party or any Subsidiary, or any Environmental Liability related in any way to a Credit Party or any Subsidiary, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by a Credit Party, and regardless of whether any Indemnitee is a party thereto, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, penalties, liabilities or related expenses (w) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (x) result from a claim brought by a Credit Party against an Indemnitee for breach in bad faith or a material breach of such Indemnitee’s obligations hereunder or under any other Loan Document, if such Credit Party has obtained a final and non-appealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (y) result from any litigation in which an Indemnitee and one or more Credit Parties are adverse to each other, and in which the Credit Parties prevail on their claims and the Indemnitee does not prevail on its defenses or its counterclaims interposed in such litigation and such Credit Party has obtained a final and non-appealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (z) arise from any claim, actions, suits, inquiries, litigation, investigation or proceeding that does not involve an act or omission of any Credit Party or any Affiliate thereof and that is brought by an Indemnitee against any other Indemnitee (other than any claim, actions, suits, inquiries, litigation, investigation or proceeding against any of the Agents in its capacity as such)). Without limiting the provisions of Section 3.01(c), this Section 10.04(b) shall not apply with respect to Taxes, other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section 10.04 to be paid by it to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing and without relieving the Borrower of its obligations with respect thereto, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent). The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.13(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, no Credit Party shall assert, and hereby waives, any claim against any Indemnitee, on any theory of liability,

for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent of such Indemnitee's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment.

(e) Payments. All amounts due under this Section 10.04 shall be payable not later than ten (10) Business Days after demand therefor (accompanied by backup documentation to the extent available).

(f) Survival. The agreements in this Section 10.04 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Facilities and the repayment, satisfaction or discharge of all other Obligations.

#### **10.05 Payments Set Aside.**

To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

#### **10.06 Successors and Assigns.**

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder (except in a transaction not prohibited by Section 7.04) without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section 10.06, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section 10.06, or (iii) by way of pledge or assignment or grant of a security interest subject to the restrictions of subsection (f) of this Section 10.06 (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section 10.06 and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Loans at the time owing to it (in each case with respect to any Facility) or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section 10.06, the aggregate amount of the applicable Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 in the case of any assignment in respect of a Facility unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single assignee (or to an assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all of the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section 10.06 and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof; and

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person

that is not a Lender in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that no such processing and recordation fee shall be required in the case of an assignment by a Lender to an Affiliate of such Lender and the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to a Credit Party. No such assignment shall be made to a Credit Party or any Affiliate or Subsidiary of a Credit Party.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person (or to a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person).

(vii) No Assignment to Defaulting Lenders or Disqualified Institutions. No such assignment shall be made to a Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (vii) or to a Disqualified Institution.

(viii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section 10.06, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04.

with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section 10.06.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower (with respect to its own interest only), at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person)), a Person that would not constitute an Eligible Assignee, a Defaulting Lender, a Disqualified Institution, the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section 10.06, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the requirements and limitations therein, including the requirements under Section 3.01(e) (it being understood that the documentation required under Section 3.01(e) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 10.06. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.14 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as the Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent.

(f) Certain Pledges. Any Lender may at any time pledge, assign or grant a security interest in, all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment or grant of a security interest to secure obligations to a Federal Reserve Bank or any other central banking authority; provided that no such pledge or assignment or grant of a security interest shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee or grantee for such Lender as a party hereto.

(g) Disqualified Institutions.

(i) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

(ii) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the assigning Lender entered into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement to such Person (unless the Borrower has consented to such assignment in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be disqualified from becoming a Lender and (y) the execution by the Borrower of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this clause (g)(ii) shall not be void, but the other provisions of this clause (g) shall apply.

(iii) If any assignment or participation is made to any Disqualified Institution without the Borrower's prior written consent in violation of clause (ii) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) purchase or prepay any outstanding Loans made by such Disqualified Institution by paying the lesser of (x) the outstanding principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Loan, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and/or (B) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 10.06), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the outstanding principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(iv) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by any Credit Party, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders or the Administrative Agent, or (z) access the Platform or any other electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws (a "Bankruptcy Plan"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Bankruptcy Plan, (2) if such Disqualified Institution does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(v) The Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Borrower and any updates thereto from time to time (collectively, the "DQ List") on the Platform, including that portion of the Platform that is designated for "public side" Lenders and/or (B) provide the DQ List to each Lender requesting the same.

#### **10.07 Treatment of Certain Information; Confidentiality.**

Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) on a need-to-know basis to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed

of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any Governmental Authority purporting to have jurisdiction over it or its Affiliates (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.07, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.16(e) or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower, (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 10.07 or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than a Credit Party that the Administrative Agent, any such Lender reasonably believes is not bound by a duty of confidentiality to the Credit Parties, (i) to any rating agency (provided such rating agencies are advised of the confidential nature of such information and agree to keep such information confidential) or (j) as reasonably required by any Lender or other Person that would qualify as an Eligible Assignee hereunder (without giving effect to the consent required under Section 10.06(b)(iii)) providing financing to such Lender (provided such Lenders or such other Persons are advised of the confidential nature of such information and agree to keep such information confidential). In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and customary information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement and the other Loan Documents.

For purposes of this Section 10.07, “Information” means all information received from or on behalf of any Credit Parties or any Subsidiary relating to a Credit Party or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by a Credit Party or any Subsidiary, provided that, in the case of information received from a Credit Party or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 10.07 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own or its other similarly situated customers’ confidential information.

Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning a Credit Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

#### **10.08 Right of Setoff.**

If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of a Credit Party against any and all of the Obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document

to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.18 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) such Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section 10.08 are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

#### **10.09 Interest Rate Limitation.**

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

#### **10.10 Counterparts; Integration; Effectiveness.**

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent in connection with the Term Facility or any Incremental Term Loan Facility constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

#### **10.11 Survival of Representations and Warranties.**

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent

or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

#### **10.12 Severability.**

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

#### **10.13 Replacement of Lenders.**

If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender is a Defaulting Lender or is or becomes a Disqualified Institution, or if any Lender does not consent to any amendment or waiver of any provision hereof or of any other Loan Document for which its consent is required under Section 10.01 that has been approved by the Required Lenders, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the assignment fee specified in Section 10.06(b) shall have been paid to or waived by the Administrative Agent;
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
- (d) such assignment does not conflict with applicable Laws; and
- (e) in the case of an assignment resulting from a Lender's refusal to consent to an amendment, waiver or consent, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

#### **10.14 Governing Law; Jurisdiction; Etc.**

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

(b) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST A CREDIT PARTY OR ANY OF ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION 10.14. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

#### **10.15 Waiver of Jury Trial.**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS

AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.15.

**10.16 No Advisory or Fiduciary Responsibility.**

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Credit Parties acknowledge and agree, and acknowledge their Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Lenders and the Arrangers are arm's-length commercial transactions between the Credit Parties and their Affiliates, on the one hand, and the Administrative Agent, the Lenders and the Arrangers, on the other hand, (B) the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate, and (C) the Credit Parties are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Lender and each Arranger each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Credit Party or any of its Affiliates, or any other Person and (B) neither the Administrative Agent, any Lender nor any Arranger has any obligation to any Credit Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Lenders and the Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Credit Parties and their Affiliates, and neither the Administrative Agent, any Lender nor any Arranger has any obligation to disclose any of such interests to the Credit Parties or their Affiliates. Each Credit Party agrees that it will not claim that any of the Administrative Agent, the Lenders or the Arrangers has rendered advisory services of any nature, or owes a fiduciary or similar duty, to any Credit Party, in connection with any aspect of any transaction contemplated hereby.

**10.17 USA Patriot Act Notice.**

Each Lender that is subject to the Patriot Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Credit Parties, which information includes the name and address of the Credit Parties and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Credit Parties in accordance with the Patriot Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

**10.18 Delivery of Signature Page.**

Each Lender to become a party to this Agreement on the date hereof shall do so by delivering to the Administrative Agent a counterpart of this Agreement duly executed by such Lender.

**10.19 ENTIRE AGREEMENT.**

THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

**10.20 Acknowledgment and Consent to Bail-In of EEA Financial Institutions.**

Solely to the extent any Lender that is an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

**ARTICLE XI.**

**GUARANTY**

**11.01 The Guaranty.**

(a) The Guarantor hereby guarantees to the Administrative Agent and each of the holders of the Obligations, as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations (the “Guaranteed Obligations”) in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantor hereby further agrees that if any of the Guaranteed Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the Guarantor will promptly pay

the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

(b) Notwithstanding any provision to the contrary contained herein, in any of the other Loan Documents or other documents relating to the Obligations, the obligations of the Guarantor under this Agreement and the other Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law.

#### **11.02 Obligations Unconditional.**

The obligations of the Guarantor under Section 11.01 are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents or other documents relating to the Obligations, or any substitution, compromise, release, impairment or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable Laws, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 11.02 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances. The Guarantor agrees that it shall have no right of subrogation, indemnity, reimbursement or contribution against the Borrower for amounts paid under this Article XI until such time as the Obligations have been irrevocably paid in full and the Commitments relating thereto have expired or been terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantor hereunder, which shall remain absolute and unconditional as described above:

- (a) at any time or from time to time, without notice to the Guarantor, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;
- (b) any of the acts mentioned in any of the provisions of any of the Loan Documents, or other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to therein shall be done or omitted;
- (c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents or other documents relating to the Guaranteed Obligations, or any other agreement or instrument referred to therein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;
- (d) any Lien granted to, or in favor of, the Administrative Agent or any of the holders of the Guaranteed Obligations as security for any of the Guaranteed Obligations shall fail to attach or be perfected; or
- (e) any of the Guaranteed Obligations shall be determined to be void or voidable (including for the benefit of any creditor of the Guarantor) or shall be subordinated to the claims of any Person (including any creditor of the Guarantor).

With respect to its obligations hereunder, the Guarantor hereby expressly waives diligence, presentment, demand of payment, protest notice of acceptance of the Guaranty given hereby and of Borrowings that may constitute Guaranteed Obligations, notices of amendments, waivers and supplements to the Loan Documents and other documents relating to the Guaranteed Obligations, or the compromise, release or exchange of collateral or security, and all notices whatsoever, and any requirement that the Administrative Agent or any holder of the Guaranteed Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents or any other documents relating to the Guaranteed Obligations or any other agreement or instrument referred to therein, or against any other Person under any other guarantee of, or security for, any of the Obligations.

#### **11.03 Reinstatement.**

Neither the Guarantor's obligations hereunder nor any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by an impairment, modification, change, release or limitation of the liability of the Borrower, by reason of the Borrower's bankruptcy or insolvency or by reason of the invalidity or unenforceability of all or any portion of the Guaranteed Obligations. The obligations of the Guarantor under this Article XI shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings pursuant to any Debtor Relief Law or otherwise, and the Guarantor agrees that it will indemnify the Administrative Agent and each holder of Guaranteed Obligations on demand for all reasonable costs and expenses (including all reasonable fees, expenses and disbursements of counsel) incurred by the Administrative Agent or such holder of Guaranteed Obligations in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Debtor Relief Law.

#### **11.04 Certain Waivers.**

The Guarantor acknowledges and agrees that (a) the Guaranty given hereby may be enforced without the necessity of resorting to or otherwise exhausting remedies in respect of any other security or collateral interests, and without the necessity at any time of having to take recourse against the Borrower hereunder or against any collateral securing the Guaranteed Obligations or otherwise, (b) it will not assert any right to require the action first be taken against the Borrower or any other Person or pursuit of any other remedy or enforcement of any other right and (c) nothing contained herein shall prevent or limit action being taken against the Borrower hereunder, under the other Loan Documents or the other documents and agreements relating to the Guaranteed Obligations or from foreclosing on any security or collateral interests relating hereto or thereto, or from exercising any other rights or remedies available in respect thereof, if neither the Borrower nor the Guarantor shall timely perform their obligations, and the exercise of any such rights and completion of any such foreclosure proceedings shall not constitute a discharge of the Guarantor's obligations hereunder unless, as a result thereof, the Guaranteed Obligations shall have been paid in full and the Commitments relating thereto shall have expired or been terminated, it being the purpose and intent that the Guarantor's obligations hereunder be absolute, irrevocable, independent and unconditional under all circumstances.

#### **11.05 Remedies.**

The Guarantor agrees that, to the fullest extent permitted by law, as between the Guarantor, on the one hand, and the Administrative Agent and the holders of the Guaranteed Obligations, on the other hand, the Guaranteed Obligations may be declared to be forthwith due and payable as provided in Article VIII.

(and shall be deemed to have become automatically due and payable in the circumstances provided in Article VIII) for purposes of Section 11.01, notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Guaranteed Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Guaranteed Obligations being deemed to have become automatically due and payable), the Guaranteed Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantor for purposes of Section 11.01.

**11.06 Guaranty of Payment; Continuing Guaranty.**

The guarantee in this Article XI is a guaranty of payment and not of collection, and is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising.

**[Remainder of Page Intentionally Left Blank]**

Each of the parties hereto has caused a counterpart of this Agreement to be duly executed as of the date first above written.

**BORROWER:** VENTAS REALTY, LIMITED PARTNERSHIP

By: /s/ Robert F. Probst

Name: Robert F. Probst

Title: Executive Vice President and  
Chief Financial Officer

**GUARANTOR:** VENTAS, INC.

By: /s/ Robert F. Probst

Name: Robert F. Probst

Title: Executive Vice President and  
Chief Financial Officer

[Signature Page to Credit and Guaranty Agreement]

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**ADMINISTRATIVE AGENT:** BANK OF AMERICA, N.A.,  
as Administrative Agent

By: /s/ Henry Pennell  
Name: Henry Pennell  
Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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**LENDERS:**BANK OF AMERICA, N.A., as a Lender

By: /s/ Yinghua Zhang  
Name: Yinghua Zhang  
Title: Director

[Signature Page to Credit and Guaranty Agreement]

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JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Sangeeta Mahadevan

Name: Sangeeta Mahadevan

Title: Executive Director

[Signature Page to Credit and Guaranty Agreement]

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CITIBANK, N.A., as a Lender

By: /s/ Christopher J. Albano

Name: Christopher J. Albano

Title: Authorized Signatory

[Signature Page to Credit and Guaranty Agreement]

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CREDIT AGRICOLE CORPORATE AND  
INVESTMENT BANK, as a Lender

By: /s/ Gordon Yip  
Name: Gordon Yip  
Title: Director

By: /s/ Karen L. Ramos  
Name: Karen L. Ramos  
Title: Managing Director

[Signature Page to Credit and Guaranty Agreement]

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MUFG BANK, LTD., as a Lender

By: /s/ Scott O'Connell  
Name: Scott O'Connell  
Title: Director

[Signature Page to Credit and Guaranty Agreement]

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PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Susan Lunt  
Name: Susan Lunt  
Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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ROYAL BANK OF CANADA, as a Lender

By: /s/ Sheena Lee

Name: Sheena Lee

Title: Authorized Signatory

[Signature Page to Credit and Guaranty Agreement]

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TD BANK, N.A., as a Lender

By: /s/ Sean C. Dunne

Name: Sean C. Dunne

Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as a Lender

By: /s/ Andrea Chen  
Name: Andrea Chen  
Title: Managing Director

[Signature Page to Credit and Guaranty Agreement]

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THE BANK OF NOVA SCOTIA, as a Lender

By: /s/ Michelle C. Phillips  
Name: Michelle C. Phillips  
Title: Execution Head & Director

[Signature Page to Credit and Guaranty Agreement]

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THE BANK OF NEW YORK MELLON, as a Lender

By: /s/ Carol Murray  
Name: Carol Murray  
Title: Managing Director

[Signature Page to Credit and Guaranty Agreement]

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BMO HARRIS BANK, N.A., as a Lender

By: /s/ Lloyd Baron  
Name: Lloyd Baron  
Title: Director

[Signature Page to Credit and Guaranty Agreement]

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BRANCH BANKING AND TRUST COMPANY,  
as a Lender

By: /s/ Brad Bowen

Name: Brad Bowen

Title: Senior Vice President

[Signature Page to Credit and Guaranty Agreement]

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MIZUHO BANK (USA), as a Lender

By: /s/ Tracy Rahn  
Name: Tracy Rahn  
Title: Executive Director

[Signature Page to Credit and Guaranty Agreement]

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MORGAN STANLEY BANK, N.A. as a Lender

By: /s/ Michael King  
Name: Michael King  
Title: Authorized Signatory

[Signature Page to Credit and Guaranty Agreement]

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SUMITOMO MITSUI BANKING CORPORATION,  
as a Lender

By: /s/ William G. Karl  
Name: William G. Karl  
Title: Executive Officer

[Signature Page to Credit and Guaranty Agreement]

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BANK OF THE WEST, A CALIFORNIA BANKING  
CORPORATION, as a Lender

By: /s/ Sarah J. Burns  
Name: Sarah J. Burns  
Title: Vice President

By: /s/ Benjamin Arroyo  
Name: Benjamin Arroyo  
Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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CAPITAL ONE, NATIONAL ASSOCIATION,  
as a Lender

By: /s/ Alicia Cook

Name: Alicia Cook

Title: Authorized Signatory

[Signature Page to Credit and Guaranty Agreement]

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CITY NATIONAL BANK, A NATIONAL BANKING  
ASSOCIATION, as a Lender

By: /s/ Bob Besser

Name: Bob Besser

Title: Senior Vice President

[Signature Page to Credit and Guaranty Agreement]

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FIFTH THIRD BANK, AN OHIO BANKING  
CORPORATION, as a Lender

By: /s/ Michael P. Perillo  
Name: Michael P. Perillo  
Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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COMPASS BANK, as a Lender

By: /s/ Brian Tuerff

Name: Brian Tuerff

Title: Senior Vice President

[Signature Page to Credit and Guaranty Agreement]

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THE NORTHERN TRUST COMPANY, as a Lender

By: /s/ Brittany Mondane  
Name: Brittany Mondane  
Title: Vice President

[Signature Page to Credit and Guaranty Agreement]

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**SCHEDULE 2.01****COMMITMENTS AND APPLICABLE PERCENTAGES**

<b>Lender</b>	<b>Term A-1 Commitment</b>	<b>Applicable Percentage (Term A-1 Facility)</b>	<b>Term A-2 Commitment</b>	<b>Applicable Percentage (Term A-2 Facility)</b>	<b>Commitments</b>	<b>Applicable Percentage (all Facilities)</b>
Bank of America, N.A.	\$20,000,000.01	6.666666670%	\$39,999,999.99	6.666666665%	\$60,000,000.00	6.666666667%
JPMorgan Chase Bank, N.A.	\$20,000,000.01	6.666666670%	\$39,999,999.99	6.666666665%	\$60,000,000.00	6.666666667%
Citibank, N.A.	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
Credit Agricole Corporate and Investment Bank	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
MUFG Bank, Ltd.	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
PNC Bank, National Association	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
Royal Bank of Canada	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
TD Bank, N.A.	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
Wells Fargo Bank, National Association	\$17,333,333.33	5.7777777777%	\$34,666,666.67	5.777777778%	\$52,000,000.00	5.777777778%
The Bank of Nova Scotia	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%

Schedule 2.01

The Bank of New York Mellon	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
BMO Harris Bank, N.A.	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
Branch Banking and Trust Company	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
Mizuho Bank, Ltd.	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
Morgan Stanley Bank, N.A.	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
Sumitomo Mitsui Banking Corporation	\$14,000,000.00	4.666666667%	\$28,000,000.00	4.666666667%	\$42,000,000.00	4.666666667%
Bank of the West	\$8,000,000.00	2.666666667%	\$16,000,000.00	2.666666667%	\$24,000,000.00	2.666666667%
Capital One, National Association	\$8,000,000.00	2.666666667%	\$16,000,000.00	2.666666667%	\$24,000,000.00	2.666666667%
City National Bank	\$8,000,000.00	2.666666667%	\$16,000,000.00	2.666666667%	\$24,000,000.00	2.666666667%
Fifth Third Bank	\$8,000,000.00	2.666666667%	\$16,000,000.00	2.666666667%	\$24,000,000.00	2.666666667%
Compass Bank	\$5,000,000.00	1.666666667%	\$10,000,000.00	1.666666667%	\$15,000,000.00	1.666666667%
The Northern Trust Company	\$3,666,666.67	1.222222223%	\$7,333,333.33	1.222222222%	\$11,000,000.00	1.222222222%
<b>Total:</b>	<b>\$300,000,000.00</b>	<b>100.000000000%</b>	<b>\$600,000,000.00</b>	<b>100.000000000%</b>	<b>\$900,000,000.00</b>	<b>100.000000000%</b>

Schedule 2.01

Schedule 2.01

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**SCHEULDE 5.19**

**TAXPAYER IDENTIFICATION NUMBERS**

<b>CREDIT PARTY</b>	<b>U.S. TAXPAYER IDENTIFICATION NUMBER</b>
VENTAS REALTY, LIMITED PARTNERSHIP	
VENTAS, INC.	61-1055020

Schedule 5.19

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**SCHEDULE 10.02**

**ADMINISTRATIVE AGENT'S OFFICE;  
CERTAIN ADDRESSES FOR NOTICES**

**CREDIT PARTIES:**

c/o Ventas Realty, Limited Partnership  
Ventas Realty, Limited Partnership  
500 North Hurstbourne Parkway, Suite 200  
Louisville, KY 40222  
Attention: General Counsel  
Telephone: (502) 357-9000  
Facsimile: (502) 357-9029  
Email: [rinely@ventasreit.com](mailto:rinely@ventasreit.com)  
Website: [www.ventasreit.com](http://www.ventasreit.com)

With a copy to:

Latham & Watkins LLP  
330 North Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Attention: Brad Kotler  
Telephone: (312) 876-7651  
Email: [brad.kotler@lw.com](mailto:brad.kotler@lw.com)

**ADMINISTRATIVE AGENT:**

**DAILY OPERATIONS CONTACT:**

*(for payments and Requests for Borrowings)*

Name: Nicholas Iconos  
Telephone: 469-201-8669  
Facsimile #: 214-290-9443  
Email: [nicholas.iconos@baml.com](mailto:nicholas.iconos@baml.com)

**Mailing Address**

Bank of America  
2380 Performance Dr., Bldg. C  
TX2-984-03-23  
Richardson, Texas 75082

**OTHER NOTICES AS ADMINISTRATIVE AGENT:**

Bank of America, N.A.  
2380 Performance Dr., Bldg. C  
Mail Code: TX2-984-03-26  
Richardson, Texas 75082  
Attention: Maurice Washington  
Telephone: 214-209-5606  
Telecopier: 214-290-9544  
Electronic Mail: [maurice.washington@baml.com](mailto:maurice.washington@baml.com)

with a copy to:

Bank of America, N.A.  
Wholesale Credit GCIB Healthcare  
100 N. Tryon Street  
Mail Code: NC1 -007-17-11  
Charlotte, NC 28255  
Attention: Yinghua Zhang  
Telephone: 980-387-5915  
Telecopier: 312-453-2722  
Electronic Mail: [yinghua.zhang@baml.com](mailto:yinghua.zhang@baml.com)

**EXHIBIT A****FORM OF ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (this “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [the][each] Assignor identified in item 1 below ([the][each, an] “Assignor”) and [the][each] Assignee identified in item 2 below ([the][each, an] “Assignee”). [It is understood and agreed that the rights and obligations of [the Assignors] [and] [the Assignees] hereunder are several and not joint.] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by [the] [each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of [the Assignor’s][the respective Assignors’] rights and obligations in [its capacity as a Lender] [their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective facilities identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] “Assigned Interest”). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]:

[Assignor [is] [is not] a Defaulting Lender]

[Assignor [is] [is not] a Defaulting Lender]

2. Assignee[s]:

[for each Assignee, indicate [Affiliate] [Approved Fund] of  
[identify Lender] and indicate Assignee is not a  
Disqualified Institution]

3. Borrower:

VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware  
limited partnership

4. Administrative Agent:

Bank of America, N.A., as the administrative agent under the  
Credit Agreement

5. Credit Agreement:

Credit and Guaranty Agreement, dated as of July 26, 2018,  
among the Borrower, Ventas, Inc., as guarantor, the lending  
institutions party thereto from time to time, and Bank of  
America, N.A., as Administrative Agent.

6. Assigned Interest:

Assignor[s]	Assignee[s]	Facility Assigned	Aggregate Amount of Commitment / Loans for all Lenders	Amount of Commitment / Loans Assigned	Percentage Assigned of Commitment / Loans	CUSIP Number
			\$	\$	%	
			\$	\$	%	
			\$	\$	%	

7. Trade Date: \_\_\_\_\_]

Effective Date: \_\_\_\_\_, 20\_\_\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE  
EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S]  
[NAME OF ASSIGNOR]

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

ASSIGNEE[S]  
[NAME OF ASSIGNEE]

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

[Consented to and] Accepted:

BANK OF AMERICA, N.A.,  
as Administrative Agent

By: \_\_\_\_\_

Title:

[Consented to:]

[VENTAS REALTY, LIMITED PARTNERSHIP

By: Ventas, Inc., its General Partner

By: \_\_\_\_\_

Name:

Title:]

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION  
STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

**1. REPRESENTATIONS AND WARRANTIES.**

**1.1. Assignor.** [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the] [[the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Credit Parties or their Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Credit Parties or Affiliates or any other Person of any of their respective obligations under any Loan Document.

**1.2. Assignee.** [The] [Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Sections 10.06(b)(iii), (v), (vi) and (vii) of the Credit Agreement (subject to such consents, if any, as may be required under Section 10.06(b)(iii) of the Credit Agreement) and it is not a Disqualified Institution, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by [the][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements referred to in Section 5.05 thereof or delivered pursuant to Section 6.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent, [the][any] Assignor or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the][such] Assignee and (viii) it is not a Disqualified Institution (as defined in the Credit Agreement); and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, [the][any] Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

**2. PAYMENTS. FROM AND AFTER THE EFFECTIVE DATE, THE ADMINISTRATIVE AGENT SHALL MAKE ALL PAYMENTS IN RESPECT OF [THE][EACH] ASSIGNED INTEREST (INCLUDING PAYMENTS OF PRINCIPAL, INTEREST, FEES AND**

OTHER AMOUNTS) TO [THE][THE RELEVANT] ASSIGNOR FOR AMOUNTS WHICH HAVE ACCRUED TO BUT EXCLUDING THE EFFECTIVE DATE AND TO [THE][THE RELEVANT] ASSIGNEE FOR AMOUNTS WHICH HAVE ACCRUED FROM AND AFTER THE EFFECTIVE DATE.

3. GENERAL PROVISIONS. THIS ASSIGNMENT AND ASSUMPTION SHALL BE BINDING UPON, AND INURE TO THE BENEFIT OF, THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THIS ASSIGNMENT AND ASSUMPTION MAY BE EXECUTED IN ANY NUMBER OF COUNTERPARTS, WHICH TOGETHER SHALL CONSTITUTE ONE INSTRUMENT. DELIVERY OF AN EXECUTED COUNTERPART OF A SIGNATURE PAGE OF THIS ASSIGNMENT AND ASSUMPTION BY TELECOPY SHALL BE EFFECTIVE AS DELIVERY OF A MANUALLY EXECUTED COUNTERPART OF THIS ASSIGNMENT AND ASSUMPTION.

THIS ASSIGNMENT AND ASSUMPTION SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

**EXHIBIT B**

**FORM OF COMMITTED LOAN NOTICE**

Date: \_\_\_\_\_, \_\_\_\_

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time; the terms defined therein being used herein as therein defined), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership ("Borrower"), VENTAS, INC., a Delaware corporation as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

The undersigned hereby requests (select one):

- |   |   |
|---|---|
| <input type="checkbox"/> A Borrowing of Term A-1 Loans    | <input type="checkbox"/> A Borrowing of Term A-2 Loans    |
| <input type="checkbox"/> A continuation of Term A-1 Loans | <input type="checkbox"/> A continuation of Term A-2 Loans |
| <input type="checkbox"/> A conversion of Term A-1 Loans   | <input type="checkbox"/> A conversion of Term A-2 Loans   |
| <input type="checkbox"/> A prepayment of Term A-1 Loans   | <input type="checkbox"/> A prepayment of Term A-2 Loans   |

1. On \_\_\_\_\_ (a Business Day).
2. In the amount of \$\_\_\_\_\_.
3. Comprised of the following Type of Loans: [Base Rate Loans] [Eurocurrency Rate Loans].
4. For Eurocurrency Rate Loans: with an Interest Period of [one week]/[one] [two] [three] [six] [twelve] months ending on \_\_\_\_\_ (a Business Day).

**VENTAS REALTY, LIMITED PARTNERSHIP**

By: Ventas, Inc., its General Partner

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

**EXHIBIT C**

**FORM OF COMPLIANCE CERTIFICATE**



**Check for distribution to PUBLIC and Private side Lenders**

Financial Statement Date: \_\_\_\_\_

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"; the

terms defined therein being used herein as therein defined), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership ("Borrower"), VENTAS, INC., a Delaware corporation, as guarantor (the "Guarantor"), the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

The undersigned Responsible Officer of the Guarantor hereby certifies as of the date hereof that [he/she] is the \_\_\_\_\_ of the Guarantor, and that, in [his/her] capacity as such, [he/she] is authorized to execute and deliver to the Administrative Agent this Compliance Certificate on behalf of the Guarantor and the Borrower, and that:

*[Use following paragraph 1 for fiscal year-end financial statements]*

1. [Attached hereto as Schedule 1 are][The Credit Parties have delivered] the audited consolidated financial statements required by Section 6.01(a) of the Credit Agreement for the fiscal year of the Guarantor ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

*[Use following paragraph 1 for fiscal quarter-end financial statements]*

1. [Attached hereto as Schedule 1 are][The Credit Parties have delivered] the unaudited consolidated financial statements required by Section 6.01(b) of the Credit Agreement for the fiscal quarter of the Guarantor ended as of the above date. Such financial statements fairly present the financial condition, results of operations, equity and cash flows of the Consolidated Group in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

2. A review of the activities of the Credit Parties during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Credit Parties performed and observed all of their respective Obligations under the Loan Documents, and

*[select one:]*

[to the knowledge of the undersigned during such fiscal period, each of the Credit Parties performed and observed each covenant and condition of the Loan Documents applicable to it, and no Default has occurred and is continuing.]

*-or-*

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default and its nature and status:]

3. The financial covenant analyses and information set forth on Schedule [1][2] attached hereto are true and accurate on and as of the Financial Statement Date referred to above.

*IN WITNESS WHEREOF*, the undersigned has executed this Compliance Certificate as of \_\_\_\_\_, \_\_\_\_.

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

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**FORM OF TERM A-1 NOTE**

FOR VALUE RECEIVED, the undersigned (the “Borrower”), hereby promises to pay to the order of [      ] or registered assigns (the “Lender”), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of the Term A-1 Loan made by the Lender to the Borrower under that certain Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”; the terms defined therein being used herein as therein defined), among the Borrower, VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower promises to pay interest on the unpaid principal amount of the Term A-1 Loan from the date of such Term A-1 Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest on the Term A-1 Loan shall be made to the Administrative Agent for the account of the Lender in Dollars and in Same Day Funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Term A-1 Note is one of the Term A-1 Notes referred to in the Credit Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein.

Upon the occurrence and continuation of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Term A-1 Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. The Term A-1 Loan made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Term A-1 Note and endorse thereon the date, amount and maturity of its Term A-1 Loan and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term A-1 Note.

[signature page immediately follows]

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THIS TERM A-1 NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

VENTAS REALTY, LIMITED PARTNERSHIP

By: Ventas, Inc., its General Partner

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

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## **TERM A-1 LOANS AND PAYMENTS WITH RESPECT THERETO**

**FORM OF TERM A-2 NOTE**

FOR VALUE RECEIVED, the undersigned (the “Borrower”), hereby promises to pay to the order of [      ] or registered assigns (the “Lender”), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of the Term A-2 Loan made by the Lender to the Borrower under that certain Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”; the terms defined therein being used herein as therein defined), among the Borrower, VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

The Borrower promises to pay interest on the unpaid principal amount of the Term A-2 Loan from the date of such Term A-2 Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest on the Term A-2 Loan shall be made to the Administrative Agent for the account of the Lender in Dollars and in Same Day Funds at the Administrative Agent’s Office for such currency. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Term A-2 Note is one of the Term A-2 Notes referred to in the Credit Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein.

Upon the occurrence and continuation of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Term A-2 Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. The Term A-2 Loan made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Term A-2 Note and endorse thereon the date, amount and maturity of its Term A-2 Loan and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term A-2 Note.

[signature page immediately follows]

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THIS TERM A-2 NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

VENTAS REALTY, LIMITED PARTNERSHIP

By: Ventas, Inc., its General Partner

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

---

## **TERM A-2 LOANS AND PAYMENTS WITH RESPECT THERETO**

**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**  
(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership (the “Borrower”), VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20[ ]

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**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership (the “Borrower”), VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20[ ]

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**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**  
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership (the “Borrower”), VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20[ ]

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**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**  
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit and Guaranty Agreement, dated as of July 26, 2018 (as amended, restated, extended, supplemented or otherwise modified from time to time, the “Credit Agreement”), among VENTAS REALTY, LIMITED PARTNERSHIP, a Delaware limited partnership (the “Borrower”), VENTAS, INC., a Delaware corporation, as guarantor, the lending institutions party thereto from time to time, and BANK OF AMERICA, N.A., as Administrative Agent.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20[ ]

## STATEMENT REGARDING COMPUTATION OF RATIOS OF EARNINGS TO FIXED CHARGES

	For the Nine Months Ended September 30, 2018
	(dollars in thousands)
Income before unconsolidated entities, income taxes, discontinued operations, real estate dispositions and noncontrolling interests	\$ 353,319
Interest expense	
Senior notes payable and other debt	331,973
Distributions from unconsolidated entities	60,164
Earnings	<u>\$ 745,456</u>
Interest	
Senior notes payable and other debt expense	\$ 331,973
Interest capitalized	8,003
Fixed charges	<u>\$ 339,976</u>
Ratio of Earnings to Fixed Charges	<u>2.19</u>

I, Debra A. Cafaro, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ventas, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report, any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting, which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 26, 2018

/s/ DEBRA A. CAFARO

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Debra A. Cafaro

*Chairman and Chief Executive Officer*

I, Robert F. Probst, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ventas, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report, any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting, which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 26, 2018

/s/ ROBERT F. PROBST

Robert F. Probst  
*Executive Vice President and Chief Financial Officer*

**CERTIFICATION PURSUANT TO**

**18 U.S.C. SECTION 1350,**

**AS ADOPTED PURSUANT TO**

**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Ventas, Inc. (the "Company") for the period ended September 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Debra A. Cafaro, Chairman and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: October 26, 2018

/s/ DEBRA A. CAFARO

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Debra A. Cafaro  
*Chairman and Chief Executive Officer*

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**CERTIFICATION PURSUANT TO**

**18 U.S.C. SECTION 1350,**

**AS ADOPTED PURSUANT TO**

**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Ventas, Inc. (the "Company") for the period ended September 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert F. Probst, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: October 26, 2018

/s/ ROBERT F. PROBST

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Robert F. Probst  
*Executive Vice President and Chief Financial Officer*

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.