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

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2021
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 No. 001-35517

ARES COMMERCIAL REAL ESTATE CORPORATION

(Exact name of registrant as specified in its charter)

Maryland	**45-3148087**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

245 Park Avenue, 42nd Floor, New York, NY 10167
(Address of principal executive offices) (Zip Code)

(212) 750-7300
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.01 par value per share	ACRE	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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 (Section §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, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth 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 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 has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes ☒ No ☐

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

The aggregate market value of the voting stock held by non-affiliates of the registrant on June 30, 2021, based on the closing price on that date of $14.63 on the New York Stock Exchange, was approximately $637,185,924. As of February 14, 2022, there were 47,222,067 shares of the registrant's common stock outstanding.
Portions of the registrant's Proxy Statement for its 2022 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this annual report on Form 10-K are incorporated by reference into Part III of this Form 10-K.

TABLE OF CONTENTS

	Page
Part I	
Item 1. Business	5
Item 1A. Risk Factors	10
Item 1B. Unresolved Staff Comments	50
Item 2. Properties	51
Item 3. Legal Proceedings	51
Item 4. Mine Safety Disclosures	51
Part II	
Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	52
Item 6. [Reserved]	
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations	54
Item 7A. Quantitative and Qualitative Disclosures about Market Risk	68
Item 8. Financial Statements and Supplementary Data (included in F-pages)	71
Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure	71
Item 9A. Controls and Procedures	71
Item 9B. Other Information	73
Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections	74
Part III	
Item 10. Directors, Executive Officers and Corporate Governance	74
Item 11. Executive Compensation	74
Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	74
Item 13. Certain Relationships and Related Party Transactions, and Director Independence	75
Item 14. Principal Accountant Fees and Services	75
Part IV	
Item 15. Exhibits and Financial Statement Schedules	76
Item 16. Form 10-K Summary	80
Signatures	

FORWARD-LOOKING STATEMENTS

Some of the statements contained in this annual report constitute forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995 and Section 21E of the Securities Exchange Act of 1934, as amended, and we intend such statements to be covered by the safe harbor provisions contained therein. The information contained in this section should be read in conjunction with our consolidated financial statements and notes thereto appearing elsewhere in this annual report on Form 10-K. In addition, some of the statements in this annual report (including in the following discussion) constitute forward-looking statements, which relate to future events or the future performance or financial condition of Ares Commercial Real Estate Corporation ("ACRE" and, together with its consolidated subsidiaries, the "Company," "we," "us" and "our"). The forward-looking statements contained in this report involve a number of risks and uncertainties, including statements concerning:

- our business and investment strategy;
- our projected operating results;
- the return or impact of current and future investments;
- the severity and duration of the novel coronavirus ("COVID-19") pandemic;
- the impact of the COVID-19 pandemic, on our business and the United States and global economies;
- the impact of the COVID-19 pandemic on the real estate industry and our borrowers, the performance of the properties securing our loans that may cause deterioration in the performance of our investments and, potentially, principal losses to us;
- whether, or how much, we or our borrowers have benefited or may benefit from government stimulus programs in response to the COVID-19 pandemic;
- the length of the economic slowdown resulting from the COVID-19 pandemic as well as the rate and extent of economic recovery;
- management's current estimate of expected credit losses and current expected credit loss reserve;
- the collectability and timing of cash flows, if any, from our investments;
- estimates relating to our ability to make distributions to our stockholders in the future;
- defaults by borrowers in paying amounts due on outstanding indebtedness and our ability to collect all amounts due according to the contractual terms of our investments;
- our ability to obtain, maintain, repay or refinance financing arrangements, including securitizations;
- market conditions and our ability to access alternative debt markets and additional debt and equity capital;
- the amount of commercial mortgage loans requiring refinancing;
- the demand for commercial real estate loans;
- our expected investment capacity and available capital;
- financing and advance rates for our target investments;
- our expected leverage;
- changes in interest rates, credit spreads and the market value of our investments;
- the impact of the replacement of the London Interbank Offered Rate ("LIBOR") on our operating results;

- rates of default or decreased recovery rates on our target investments;
- rates of prepayments on our mortgage loans and the effect on our business of such prepayments;
- the degree to which our hedging strategies may or may not protect us from interest rate volatility;
- availability of investment opportunities in mortgage-related and real estate-related investments and securities;
- the ability of Ares Commercial Real Estate Management LLC ("ACREM" or our "Manager") to locate suitable investments for us, monitor, service and administer our investments and execute our investment strategy;
- allocation of investment opportunities to us by our Manager;
- our ability to successfully identify, complete and integrate any acquisitions;
- our ability to maintain our qualification as a real estate investment trust ("REIT") for United States federal income tax purposes;
- our ability to maintain our exemption from registration under the Investment Company Act of 1940 (the "1940 Act");
- our understanding of our competition;
- general volatility of the securities markets in which we may invest;
- adverse changes in the real estate, real estate capital and credit markets and the impact of a protracted decline in the liquidity of credit markets on our business;
- changes in governmental regulations, tax law and rates, and similar matters (including interpretation thereof);
- authoritative or policy changes from standard-setting bodies such as the Financial Accounting Standards Board, the Securities and Exchange Commission, the Internal Revenue Service, the stock exchange where we list our common stock, and other authorities that we are subject to, as well as their counterparts in any foreign jurisdictions where we might do business;
- actions and initiatives of the United States Government or governments outside of the United States, and changes to United States Government policies;
- the state of the United States, European Union and Asian economies generally or in specific geographic regions;
- global economic trends and economic conditions; and
- market trends in our industry, interest rates, real estate values, the debt securities markets or the general economy.

We use words such as "anticipates," "believes," "expects," "intends," "will," "should," "may" and similar expressions to identify forward-looking statements, although not all forward-looking statements include these words. Our actual results and condition could differ materially from those implied or expressed in the forward-looking statements for any reason, including the factors set forth in "Risk Factors" and the other information included in this Annual Report.

We have based the forward-looking statements included in this Annual Report on information available to us on the date of this Annual Report, and we assume no obligation to update any such forward-looking statements. Although we undertake no obligation to revise or update any forward-looking statements, whether as a result of new information, future events or otherwise, you are advised to consult any additional disclosures that we may make directly to you or through reports that we have filed or in the future may file with the Securities and Exchange Commission ("SEC"), including annual reports on Form 10-K, registration statements on Form S-3, quarterly reports on Form 10-Q and current reports on Form 8-K.

PART I

Item 1. Business

The following description of the business of Ares Commercial Real Estate Corporation ("ACRE") should be read in conjunction with the information included elsewhere in this annual report on Form 10-K for the year ended December 31, 2021. We refer to ACRE together with our consolidated subsidiaries as "we," "us," "Company," or "our," unless we specifically state otherwise or the context indicates otherwise. We refer to our manager, Ares Commercial Real Estate Management LLC, as our "Manager" or "ACREM," and the parent company of our Manager, Ares Management Corporation, together with its consolidated subsidiaries, as "Ares Management."

GENERAL

We are a specialty finance company primarily engaged in originating and investing in commercial real estate ("CRE") loans and related investments. We are externally managed by Ares Commercial Real Estate Management LLC ("ACREM" or our "Manager"), a subsidiary of Ares Management Corporation (NYSE: ARES) ("Ares Management"), a publicly traded, leading global alternative asset manager, pursuant to the terms of the management agreement dated April 25, 2012, as amended, between us and our Manager (the "Management Agreement"). From the commencement of our operations in late 2011, we have been primarily focused on directly originating and managing a diversified portfolio of CRE debt-related investments for our own account.

We were formed and commenced operations in late 2011. We are a Maryland corporation and completed our initial public offering (the "IPO") in May 2012. We have elected and qualified to be taxed as a real estate investment trust ("REIT") for United States federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), commencing with our taxable year ended December 31, 2012. We generally will not be subject to United States federal income taxes on our REIT taxable income, as long as we annually distribute to stockholders an amount at least equal to our REIT taxable income prior to the deduction for dividends paid and comply with various other requirements as a REIT. We also operate our business in a manner that is intended to permit us to maintain our exemption from registration under the Investment Company Act of 1940, as amended (the "1940 Act").

Our Investment Strategy

We target borrowers whose capital needs are not being suitably met by traditional bank or capital markets sources by offering these borrowers customized financing solutions. We implement a strategy focused on direct origination combined with experienced portfolio management. Targeted borrowers are generally pursuing value improving business plans on commercial real estate which we believe often face challenges in raising capital to meet their financing needs through traditional bank and capital markets sources. As a result, we continue to find increasing demand from borrowers and sponsors for customized solutions in this segment of the market. We act as a single "one stop" source of financing for our customers through our customized financing solutions. We generally hold our loans for investment and earn interest and interest-related income.

Direct Origination

We generally source new investments through our Manager's national direct origination platform consisting of five offices across the United States as of December 31, 2021.

Investment Strategy

In pursuing investment opportunities with attractive risk-reward profiles, our Manager incorporates our views of the current and future economic environment, our outlook for real estate in general and particular asset classes and our assessment of the risk-reward profile derived from our underwriting. Our Manager's underwriting standards center on the creditworthiness and valuation of the asset collateralizing the loan as well as the strength of the borrower and the underlying sponsor of a given asset, with particular focus on an asset's business plan, competitive positioning within the market, existing capital structure and potential exit opportunities. All investment decisions are made to seek to ensure that we maintain our qualification as a REIT and our exemption from registration under the 1940 Act.

In addition, as part of our investment strategy, we may from time to time engage in discussions with counterparties with respect to various potential strategic transactions, including potential investments in, and acquisitions of, other real estate or finance companies or asset portfolios. In connection with evaluating potential strategic transactions and assets, we may incur significant expenses for the evaluation and due diligence investigation and negotiation of any potential transaction.

Our investment strategy may be amended from time to time without the approval of our stockholders, if recommended by our Manager and approved by our board of directors. We expect to disclose any material changes to our investment strategy in the periodic quarterly and annual reports that we file with the Securities and Exchange Commission (“SEC”).

Our Target Assets

Our target investments primarily include senior mortgage loans, subordinated debt, preferred equity, mezzanine loans and other CRE investment opportunities, including commercial mortgage-backed securities.

Investment Portfolio

For information about our investment portfolio, see “Management’s Discussion and Analysis of Financial Condition and Results of Operations-Investment Portfolio” and Note 3 to our consolidated financial statements included in this annual report on Form 10-K.

Targeted Investments

- *Senior Mortgage Loans:* These mortgage loans are typically secured by first liens on commercial properties, including the following property types: office, multifamily, self storage, retail, hotel, healthcare, student housing, industrial, mixed-use, residential and residential condominium. Our senior mortgage loans may include construction loans. In some cases, first lien mortgages may be divided into an A-Note and a B-Note. The A-Note is typically a privately negotiated loan that is secured by a first mortgage on a commercial property or group of related properties that is senior to a B-Note secured by the same first mortgage property or group.

- *Subordinated Debt:* These loans may include structurally subordinated first mortgage loans and junior participations in first mortgage loans or participations in these types of assets. As noted above, a B-Note is typically a privately negotiated loan that is secured by a first mortgage on a commercial property or group of related properties and is subordinate to an A-Note secured by the same first mortgage property or group. The subordination of a B-Note or junior participation typically is evidenced by participations or intercreditor agreements with other holders of interests in the note. B-Notes are subject to more credit risk with respect to the underlying mortgage collateral than the corresponding A-Note.

- *Mezzanine Loans:* Like B-Notes, these loans are also subordinated CRE loans, but are usually secured by a pledge of the borrower’s equity ownership in the entity that owns the property or by a second lien mortgage on the property. In a liquidation, these loans are generally junior to any mortgage liens on the underlying property, but senior to any preferred equity or common equity interests in the entity that owns the property. Investor rights are usually governed by intercreditor agreements.

- *Preferred Equity:* Real estate preferred equity investments are subordinate to first mortgage loans and are not collateralized by the property underlying the investment. As a holder of preferred equity, we seek to enhance our position with covenants that limit the activities of the entity in which we have an interest and protect our equity by obtaining an exclusive right to control the underlying property after an event of default, should such a default occur on our investment.

- *Other CRE Investments:* To a lesser extent, we may invest in other loans and securities, subject to maintaining our qualification as a REIT, including but not limited to commercial mortgage-backed securities, loans to real estate or hospitality companies, debtor-in-possession loans and selected other income producing equity investments, such as triple net lease equity.

Ares Commercial Real Estate Management LLC and Ares Management Corporation

We are externally managed by our Manager, a subsidiary of Ares Management, pursuant to the terms of the Management Agreement. As of December 31, 2021, Ares Management had over 2,100 employees located in over 40 offices in more than 15 countries. Since its inception in 1997, Ares Management has adhered to a disciplined investment philosophy that focuses on delivering strong risk-adjusted investment returns throughout market cycles. Ares Management believes each of its distinct but complementary investment groups in Credit, Private Equity, Real Estate, Secondary Solutions and Strategic Initiatives is a market leader based on investment performance. Ares Management was built upon the fundamental principle that each group benefits from being part of the greater whole. Ares Management has advised us that it believes that its people and culture are the most critical strategic drivers of its success as a firm. Ares Management has also advised us that it believes

creating a welcoming and inclusive work environment with opportunities for growth and development is essential to attracting and retaining a high-performance team, which is in turn necessary to drive differentiated outcomes. Ares Management believes that the unique culture, which centers upon values of collaboration, responsibility, entrepreneurialism, self-awareness and trustworthiness, makes it a preferred place for top talent at all levels to build a long-term career within the alternative asset management industry. Ares Management invests heavily in its human capital efforts, including (i) talent management, (ii) diversity, equity and inclusion, (iii) employee health and wellness, (iv) flexibility and (v) philanthropy.

We do not currently have any employees and rely on our Manager to provide us with investment advisory services. These services are provided by individuals who are employees of our Manager or one of its affiliates and each of our officers is an employee of our Manager or one of its affiliates. Our executive officers also serve as officers of our Manager and certain of its affiliates. Our Manager is responsible for administering our business activities and day-to-day operations and providing us our executive management team, principal investment team and appropriate support personnel. Pursuant to the Management Agreement, our Manager is entitled to receive a base management fee, an incentive fee and expense reimbursements. In addition, under certain circumstances, our Manager will be entitled to receive a termination fee if the Management Agreement is terminated. Our Manager, including our officers and employees of our Manager and its affiliates, may also receive grants of equity-based awards pursuant to our equity incentive plan that was adopted on April 23, 2012 and amended and restated in June 2018 (the “Amended and Restated 2012 Equity Incentive Plan”). For more information on the terms of the Management Agreement, see Note 14 to our consolidated financial statements included in this annual report on Form 10-K.

MARKET OPPORTUNITY

We believe market conditions continue to be favorable for disciplined and scaled direct lenders with broad and flexible product offerings. Supported by an active commercial real estate transaction market and growing capital for value-added and opportunistic real estate funds, we expect continued strong demand for shorter duration and often floating rate loans. We believe this will lead to a significant market of attractive financing opportunities, which we anticipate could lead to increased financing transaction volumes and enhance our market opportunity.

OUR FINANCING STRATEGY

We intend to use prudent amounts of leverage to fund the origination or acquisition of our target investments. Subject to maintaining our qualification as a REIT and our exemption from registration under the 1940 Act, we expect that our primary sources of financing will be, to the extent available to us, through (a) credit, secured funding and other lending facilities, (b) securitizations, (c) other sources of private financing, including warehouse and repurchase facilities, and (d) public or private offerings of our equity or debt securities. In the future, we may utilize other sources of financing to the extent available to us.

Given current market conditions and our focus on senior mortgages, we currently expect that such leverage would not exceed, on a debt-to-equity basis, a 4.5-to-1 ratio. Our charter and bylaws do not restrict the amount of leverage that we may use. The amount of leverage we will deploy for particular investments in our target investments will depend upon our Manager’s assessment of a variety of factors, which may include, among others, the anticipated liquidity and price volatility of the assets in our investment portfolio, the potential for losses and extension risk in our portfolio, the gap between the duration of our assets and liabilities, including hedges, the availability and cost of financing the assets, our opinion of the creditworthiness of our financing counterparties, the health of the United States economy generally or in specific geographic regions and commercial mortgage markets, our outlook for the level and volatility of interest rates, the slope of the yield curve, the credit quality of our assets, the collateral underlying our assets, and our outlook for asset spreads relative to the LIBOR curve or another alternative interest index rate commonly used for floating rate loans.

Financing Agreements

We borrow funds, as applicable in a given period, under the Wells Fargo Facility, the Citibank Facility, the CNB Facility, the MetLife Facility and the Morgan Stanley Facility (as individually defined in Note 6 to the consolidated financial statements included in this annual report on Form 10-K, and collectively, the “Secured Funding Agreements”), Notes Payable (as defined below) and the Secured Term Loan (as defined below). We refer to the Secured Funding Agreements, Notes Payable and the Secured Term Loan as the “Financing Agreements.” While the borrowers under the Financing Agreements generally are our consolidated subsidiaries, the majority of such debt agreements are guaranteed by us in whole or in part. Generally, we seek to partially offset interest rate risk by matching the interest index of loans held for investment with the interest index of the Secured Funding Agreements used to fund them.

As of December 31, 2021, we had $150.0 million outstanding under our $150.0 million Credit and Guaranty Agreement with the lenders referred to therein and Cortland Capital Market Services LLC, as administrative agent and collateral agent for the lenders (the “Secured Term Loan”). As of December 31, 2021, we had $51.1 million outstanding under two separate non-recourse note agreements with the lenders referred to therein (the “Notes Payable”). As of December 31, 2021, our outstanding balance under the Financing Agreements was $1.0 billion.

See Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity And Capital Resources—Summary of Financing Agreements” included in this annual report on Form 10-K for a further discussion of our borrowings as of December 31, 2021.

Securitizations

In addition to Financing Agreements, we may also, to the extent available, securitize the senior portion of some of our loans, while retaining the subordinate securities in our investment portfolio. The securitized portion of senior loans is reflected as securitization debt in our consolidated balance sheets. As of December 31, 2021, the outstanding balance of our CLO Securitizations (as defined below) was $864.8 million.

TAXATION

We have elected and qualified to be taxed as a REIT for United States federal income tax purposes under the Code, commencing with our taxable year ended December 31, 2012. We generally will not be subject to United States federal income taxes on our REIT taxable income if we annually distribute all of our REIT taxable income to stockholders and comply with various other requirements as a REIT.

We formed a wholly-owned subsidiary, ACRC Lender W TRS LLC (“ACRC W TRS”), in December 2013 to issue and hold certain loans intended for sale. We formed another wholly-owned subsidiary, ACRC 2017-FL3 TRS LLC (“FL3 TRS”), in March 2017 in order to hold a portion of the non-investment grade notes and the preferred equity of ACRE Commercial Mortgage 2017-FL3 Ltd. (the “FL3 CLO Securitization”) and ACRE Commercial Mortgage 2021-FL4 Ltd. (the “FL4 CLO Securitization” and together with the FL3 CLO Securitization, the “CLO Securitizations”), including the portion that generates excess inclusion income. Additionally, we also formed a wholly-owned subsidiary, ACRC WM Tenant LLC (“ACRC WM”), in March 2019 in order to lease from an affiliate the hotel property classified as real estate owned, which was acquired on March 8, 2019. ACRC W TRS, FL3 TRS and ACRC WM filed elections seeking to be taxed as corporations and also filed elections, along with us, to be treated as taxable REIT subsidiaries (“TRS”). A TRS is an entity taxed as a corporation that has not elected to be taxed as a REIT, in which a REIT directly or indirectly holds equity, and that has made a joint election with such REIT to be treated as a TRS. A TRS generally may engage in any business, including investing in assets and engaging in activities that could not be held or conducted directly by us without jeopardizing our qualification as a REIT. A TRS is subject to applicable United States federal, state, and local income tax on its taxable income. In addition, as a REIT, we may also be subject to a 100% excise tax on certain transactions between us and our TRS that are not conducted on an arm’s-length basis.

COMPETITION

Our net income depends, in part, on our ability to originate or acquire assets at favorable spreads over our borrowing costs. We operate in a competitive market for the origination and acquisition of attractive investment opportunities. We compete with other public or private REITs, specialty finance companies, savings and loan associations, banks, mortgage bankers, insurance companies, mutual funds, institutional investors, investment banking firms, financial institutions, governmental bodies, fund managers and other entities. In addition, there are numerous REITs with similar asset origination and acquisition objectives and others may be organized in the future. These other REITs may increase competition for the available supply of mortgage assets suitable for purchase and origination. Many of our competitors are significantly larger than we are and may have considerably greater financial, technical, marketing and other resources than we do. Some competitors may have a lower cost of funds and access to funding sources that are not available to us, such as the United States Government. Many of our competitors are not subject to the operating constraints associated with REIT tax compliance or maintenance of an exemption from registration under the 1940 Act. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of loans and investments and offer more attractive pricing or other terms than we would. Furthermore, competition for originations of, and investments in, assets we target may lead to decreasing yields, which may further limit our ability to generate targeted returns.

In the face of this competition, we have access to our Manager’s and Ares Management’s professionals and their collective industry expertise, which may provide us with a competitive advantage and help us assess investment risks and determine appropriate pricing for certain potential investments. These relationships enable us to compete more effectively for

attractive investment opportunities. However, we may not be able to achieve our business goals or expectations due to the competitive risks that we face. For additional information concerning these competitive risks, see “Risk Factors—Risks Related to Our Investments—We operate in a competitive market for investment opportunities and loan originations and competition may limit our ability to originate or acquire our target investments on attractive terms” included in this annual report on Form 10-K.

AVAILABLE INFORMATION

We file with or submit to the SEC annual, quarterly and current periodic reports, proxy statements and other information meeting the informational requirements of the Securities Exchange Act of 1934 (the “Exchange Act”). This information is available on our website at *www.arescre.com*. The information on our website is not deemed incorporated by reference in this annual report on Form 10-K.

Item 1A. Risk Factors

SUMMARY OF RISK FACTORS

The following is a summary of the principal risks that you should carefully consider before investing in our securities:

- The capital markets may experience periods of disruption and instability. Such market conditions may materially and adversely affect debt and equity capital markets, which may have a negative impact on our business and operations;
- We are subject to risks related to COVID-19;
- Difficult economic, political and market conditions could adversely affect our business, financial condition and results of operations;
- Our failure to remain qualified as a REIT would subject us to United States federal income tax and potentially state and local tax, and would adversely affect our operations and the market price of our common stock;
- We are dependent upon certain key personnel of our Manager for our future success and upon their access to other Ares investment professionals;
- Our indebtedness may subject us to increased risk of loss and may reduce cash available for distribution;
- There are significant potential conflicts of interest that could impact our investment returns;
- We operate in a competitive market for investment opportunities and loan originations, and competition may limit our ability to originate or acquire assets on attractive terms;
- We are exposed to risks associated with changes in interest rates, including the transition away from LIBOR and the adoption of alternative reference rates;
- Our mezzanine loan assets involve greater risks of loss than senior loans secured by real properties, and investments in preferred equity involve a greater risk of loss than traditional debt financing;
- Our loans and investments expose us to risks associated with debt-oriented real estate investments generally;
- Our investments may be concentrated and could be subject to risk of default;
- The lack of liquidity in our investments may adversely affect our business;
- We will allocate our available capital without input from our stockholders;
- We are subject to various risks related to our ownership of certain real property, including hotel properties;
- We may experience a decline in the fair value of our assets;
- We have not established a minimum distribution payment level to our stockholders and we may be unable to generate sufficient cash flows from our operations to make distributions to our stockholders at any time in the future;
- Maintenance of our exemption from registration under the 1940 Act imposes significant limits on our operations; and
- Complying with REIT requirements may cause us to forego otherwise attractive investment opportunities.

RISK FACTORS

You should carefully consider these risk factors, together with all of the other information included in this annual *report on Form 10-K, including our consolidated financial statements and the related notes thereto, before you decide whether to make an investment in our securities. The risks set out below are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results. If any of the following events occur, our business, financial condition and results of operations could be materially adversely affected. In such case, the value of our common stock and the trading price of our securities could decline, and you may lose all or part of your investment.*

RISKS RELATED TO OUR BUSINESS

The COVID-19 pandemic has caused severe disruptions in the global economy, which have had, and may continue to have, a negative impact on our business and operations.

The COVID-19 pandemic has resulted in numerous deaths, adversely impacted global commercial activity and contributed to significant volatility in equity and debt markets. The COVID-19 pandemic and preventative measures taken to contain or mitigate its spread have caused, and are continuing to cause, business shutdowns, the re-introduction of business shutdowns, cancellations of events and restrictions on travel, significant reductions in demand for certain goods and services, reductions in business activity and financial transactions, supply chain interruptions, labor shortages, increased inflationary pressure and overall economic and financial market instability both globally and in the United States. While several countries, as well as states in the United States, relaxed the public health restrictions throughout 2021 partly as a result of the introduction of vaccines, recurring COVID-19 outbreaks, including those caused by different virus variants, continue to lead to the re-introduction of certain restrictions in certain states in the United States and globally. Even after the COVID-19 pandemic subsides, the global economy including the U.S. is likely to continue to experience the lingering effects of the economic shock caused by COVID-19 containment measures including a prolonged recessionary environment in the United States, which could materially adversely affect our business and operations.

The COVID-19 pandemic has had a particularly adverse impact on industries whose properties serve as collateral for some of our portfolio of loan investments. Certain of our investments in loans collateralized by properties within other industries have also been significantly impacted by the COVID-19 pandemic. The inability of our borrowers' tenants to pay rent on their leases, or our borrowers' inability to re-lease space that becomes vacant, has adversely impacted the ability of certain of the borrowers to which we lend to continue to meet loan covenants or to make payments on their loans on a timely basis or at all.

The continued impact of the COVID-19 pandemic on our borrowers continues to pose the risk of reduced availability of liquidity sources, but our requirements for liquidity, future commitments to fund on our loans, make interest, principal and other payments pursuant to our financing obligations, including potential margin calls, likely will not be reduced. If we did not have funds available to meet our obligations, we would have to raise capital from alternative sources, which may be at unfavorable terms or may not be available to us due to the impacts of the COVID-19 pandemic. We are focused on preserving our liquidity in order to satisfy our cash requirements and we expect that our primary sources of enhancing our liquidity will be financing, to the extent available to us, public or private offerings of our equity or debt securities, asset sales and changes in our dividend practice, including by reducing the amount of, or temporarily suspending, our future dividends or making dividends that are payable in cash and shares of our common stock for some period of time.

Provisions in our financing agreements require us to pay margin call provisions following the occurrence of certain mortgage loan credit events. To mitigate the risk of future margin calls, we proactively engaged in discussions with certain of our lenders in 2020 and to a lesser extent in 2021 to modify the terms of our borrowings on certain assets within these facilities, in order to, among other things, reduce the amounts we are borrowing against such assets and/or increase the borrowing spreads. However, there is no assurance that these measures will be sufficient to avoid margin calls. We may not have the funds available to satisfy such margin calls or repay our debt at that time, which would likely result in defaults unless we are able to raise the funds from alternative sources, which we may not be able to achieve on favorable terms or at all. Posting additional collateral would reduce our liquidity. If we are unable to make the required payment or if we fail to meet or satisfy any of the covenants in our financing agreements, we would be in default under these agreements, and our lenders could elect to declare outstanding amounts due and payable, terminate their commitments and enforce their interests against existing collateral. We are also subject to cross-default and acceleration rights, which could materially and adversely affect our financial condition and ability to implement our investment strategy. See "Risk Factors—The Financing Agreements and any bank credit facilities and

repurchase agreements that we may use in the future to finance our assets may require us to provide additional collateral or pay down debt" included in this annual report on Form 10-K.

Market conditions may also make it difficult for us to extend the maturity of or refinance our existing indebtedness or to access or obtain new indebtedness with similar terms and any failure to do so could have a material adverse effect on our business. See "Risk Factors—Risks Relating to Sources of Financing and Hedging—Our access to sources of financing may be limited and thus our ability to grow our business and to maximize our returns may be adversely affected" included in this annual report on Form 10-K.

Despite actions of the United States federal government and foreign governments, the uncertainty surrounding the COVID-19 pandemic and other factors have contributed to significant volatility and declines in the global public equity markets and global debt capital markets, including the market price of shares of our common stock. The volatility and disruption to the global economy from the COVID-19 pandemic has had, and may continue to have, a negative effect on the potential for liquidity events involving our loan investments. The illiquidity of our loan investments may make it difficult for us to sell such loan investments to access capital if required, and as a result, we could realize significantly less than the value at which we have recorded our loan investments if we were required to sell them for liquidity purposes. An inability to raise or access capital, and any required sale of all or a portion of our loan investments as a result, may affect the pace of our investment activity and the size of our portfolio, which may have an adverse impact on our financial condition or results of operations, including our total interest income.

The effects on our portfolio of loan investments described above may require us to increase the current expected credit loss ("CECL") reserve in our consolidated balance sheets ("CECL Reserve") related to certain of our investments. Our loans held for investment are carried at cost, net of unamortized loan fees and origination costs, however, under the CECL methodology we adopted pursuant to Accounting Standards Update No. 2016-13, we are required to estimate expected credit losses on such loans using a range of historical experience adjusted for current and future conditions. Based on certain factors, our current estimate of expected credit losses has increased from January 1, 2021 to December 31, 2021 and may continue to fluctuate as the impact of the COVID-19 pandemic develops and we receive additional collateral financial data.

In response to the COVID-19 pandemic, Ares Management instituted a hybrid work from home arrangement to accommodate in-office and remote work. Such policy may lead to an extended period of remote working by our Manager's and/or its affiliate's employees, particularly in response to sharp increases in COVID-19 cases in our various geographies, which could strain our technology resources and introduce operational risks, including heightened cybersecurity risk. Remote working environments may be less secure and more susceptible to hacking attacks, including phishing and social engineering attempts that seek to exploit the COVID-19 pandemic.

Our board of directors may change our investment strategy or guidelines, financing strategy or leverage policies without stockholder consent.

Our board of directors may change our investment strategy or guidelines, financing strategy or leverage policies with respect to investments, originations, acquisitions, growth, operations, indebtedness, capitalization and distributions at any time without the consent of our stockholders, which could result in an investment portfolio with a different risk profile than that of our current investment portfolio or of a portfolio comprised of our target investments. A change in our investment strategy may increase our exposure to interest rate risk, default risk and real estate market fluctuations. Furthermore, a change in our asset allocation could result in our making investments in asset categories different from those described in this annual report on Form 10-K. These changes could adversely affect our financial condition, results of operations, the market price of our common stock and our ability to make distributions to our stockholders.

Changes in laws or regulations governing our operations, changes in the interpretation thereof or newly enacted laws or regulations and any failure by us to comply with these laws or regulations, could require changes to certain of our business practices, negatively impact our operations, cash flow or financial condition, impose additional costs on us or otherwise adversely affect our business.

We are subject to regulation by laws and regulations at the local, state and federal levels. These laws and regulations, as well as their interpretation, may change from time to time, and new laws and regulations may be enacted. Accordingly, any change in these laws or regulations, changes in their interpretation, or newly enacted laws or regulations and any failure by us to comply with current or new laws or regulations or such changes thereto, could require changes to certain of our business practices, negatively impact our operations, cash flow or financial condition, impose additional costs on us or otherwise adversely affect our business. Furthermore, if regulatory capital requirements imposed on our private lenders change, they may

be required to limit, or increase the cost of, financing they provide to us. In general, this could potentially increase our financing costs and reduce our liquidity or require us to sell assets at an inopportune time or price.

Both the scope of the laws and regulations and the intensity of the supervision to which we are subject have increased in response to the global financial crisis of 2008, as well as other factors such as technological and market changes. Many of these changes occurred as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") and its implementing regulations, most of which are now in place. We expect that our business will remain subject to extensive regulation and supervision.

Additionally, legislative or other actions relating to taxes could have a negative effect on us. The rules dealing with U.S. federal income taxation are constantly under review by legislators and by the Internal Revenue Service (the "IRS") and the U.S. Treasury Department. At the end of 2021, the Build Back Better Act included proposals that, if adopted, would have changed the corporate statutory and effective tax rate. While there are no immediate prospects for the Build Back Better Act to become law, future tax acts tend to draw upon earlier proposals. We are unable to predict the content or timing of adoption of any such proposal. Previously, the Tax Cuts and Jobs Act of 2017 significantly changed U.S. tax law and tax rates. The Tax Cuts and Jobs Act also authorized the IRS to issue regulations with respect to the new provisions. We cannot predict how future tax proposals and changes in the Tax Cuts and Jobs Act, or regulations or other guidance issued under it, might affect us, our business, our stockholders or our borrowers in the long-term.

New legislation and any U.S. Treasury regulations, administrative interpretations or court decisions interpreting such legislation could significantly and negatively affect our ability to qualify for tax treatment as a REIT or the U.S. federal income tax consequences to us and our stockholders of such qualification, or could have other adverse consequences. Stockholders are urged to consult with their tax advisor regarding tax legislative, regulatory, or administrative developments and proposals and their potential effect on an investment in our securities.

Adoption of the Basel III standards and other proposed supplementary regulatory standards may negatively impact our access to financing or affect the terms of our future financing arrangements.

United States regulators have elected to implement substantially all of the Basel III standards adopted by the Basel Committee on Banking Supervision several years ago in response to various financial crises and the volatility of financial markets. As of 2019, financial institutions are required to fully comply with the Basel III standards, which could cause an increase in capital requirements for, and could place constraints on, the financial institutions from which we borrow.

In January 2018, United States regulators implemented rules requiring enhanced supplementary leverage ratio standards, which impose capital requirements more stringent than those of the Basel III standards for the most systematically significant banking organizations in the United States. Implementation of the Basel III standards and adoption and implementation of the supplemental regulatory standards adopted by United States regulators may negatively impact our access to financing or affect the terms of our future financing arrangements.

In January 2016, the Basel Committee published its revised capital requirements for market risk, known as Fundamental Review of the Trading Book or FRTB, which are expected to generally result in higher global capital requirements for banks that could, in turn, reduce liquidity and increase financing and hedging costs. United States federal bank regulatory agencies have yet to issue a formal FRTB proposal, which suggests that the timeline for U.S. implementation will extend into 2024 or possibly later. The impact of FRTB will not be known until after any resulting rules are finalized and implemented by the United States federal bank regulatory agencies.

State licensing requirements will cause us to incur expenses and our failure to comply with such requirements may have a material adverse effect on us and our operations.

Nonbank companies are generally required to hold licenses in a number of U.S. states to conduct lending activities. State licensing statutes vary from state to state and prescribe or impose various recordkeeping requirements; restrictions on loan origination and servicing practices, including limits on finance charges and the type, amount and manner of charging fees; disclosure requirements; requirements that licensees submit to periodic examination; surety bond and minimum specified net worth requirements; periodic financial reporting requirements; notification requirements for changes in principal officers, stock ownership or corporate control; restrictions on advertising; and requirements that loan forms be submitted for review. Obtaining and maintaining licenses will cause us to incur expenses and failure to be properly licensed under state law or otherwise may have a material adverse effect on us and our operations.

The elimination of LIBOR may adversely affect the value of our portfolio of the LIBOR‑indexed, floating‑rate debt securities or the cost of our borrowings.

National and international regulators and law enforcement agencies have conducted investigations into a number of rates or indices that are deemed to be "reference rates." Actions by such regulators and law enforcement agencies may result in changes to the manner in which certain reference rates are determined, their discontinuance, or the establishment of alternative reference rates. In particular, on July 27, 2017, the Chief Executive of the United Kingdom Financial Conduct Authority (the "FCA"), which regulates LIBOR, announced that the FCA will no longer persuade or compel banks to submit rates for the calculation of LIBOR after 2021. On November 30, 2020, ICE Benchmark Administration ("IBA"), the administrator of LIBOR, with the support of the Federal Reserve Board and the FCA, announced plans to consult on ceasing publication of USD LIBOR on December 31, 2021 for only the one week and two month USD LIBOR tenors, and on June 30, 2023 for all other USD LIBOR tenors. Finally, on March 5, 2021, the FCA announced that all LIBOR tenors will cease to be published or will no longer be representative after June 30, 2023. Following such announcement, on the same date, the IBA indicated that, as a result of not having access to input data necessary to calculate LIBOR tenors on a representative basis after June 30, 2023, the IBA would have to cease publication of such LIBOR tenors immediately after the last publication on June 30, 2023. As a result, we expect that any of our assets or liabilities with interest rates tied to LIBOR that extend beyond June 30, 2023 will need to be converted to a replacement rate. The United States Federal Reserve, in conjunction with the Alternative Reference Rates Committee, a steering committee comprised of large United States financial institutions, has recommended replacing United States dollar LIBOR with a new index calculated by short‑term repurchase agreements, backed by Treasury securities (the "Secured Overnight Financing Rate," or "SOFR") plus a recommended spread adjustment as LIBOR's replacement. There are significant differences between LIBOR and SOFR, such as LIBOR being an unsecured lending rate while SOFR is a secured lending rate, and SOFR is an overnight rate while LIBOR reflects term rates at different maturities. As we have been converting certain of our LIBOR-based assets and liabilities to SOFR and have begun offering SOFR-based loans and obtaining leverage on such loans, the differences between LIBOR and SOFR, plus the recommended spread adjustment, could result in higher interest costs on our debt or lower return on our investments, which could have a material adverse effect on our operating results. In addition, as a result of the lack of uniformity with respect to the calculation of SOFR-indexed liabilities, the terms of our current SOFR-indexed liabilities are not always consistent across our portfolio and do not always correlate with the terms of our SOFR-indexed assets. This disparity could result in operational risks as a result of calculating payments of liabilities and assets using multiple indices.

As of December 31, 2021, our loan portfolio included $1.9 billion of floating rate investments with fully extended maturities extending past June 30, 2023 for which the interest rate was tied to LIBOR. Additionally, we had $1.8 billion of floating rate debt with fully extended maturities extending past June 30, 2023 tied to LIBOR. Our loan agreements generally allow us to choose a new index based on our reasonable discretion if the current index is no longer available. The transition from LIBOR to SOFR or other alternative reference rates may adversely affect the market for LIBOR‑based loans, including our portfolio of LIBOR‑indexed, floating‑rate loans, or the cost of our borrowings, and could result in mismatches with the interest rate of investments that we are financing. Additionally, the overall financial markets may be disrupted as a result of the phase-out or replacement of LIBOR; however, we cannot reasonably estimate the impact of the transition at this time. As such, the potential effect of any such event on our cost of capital and net investment income cannot yet be determined.

Additionally, the phase-out or replacement of LIBOR may decrease the demand for floating-rate loans, which could adversely impact our business and financial condition. We may need to renegotiate the credit agreements extending beyond June 30, 2023 that utilize LIBOR as a factor in determining the interest rate and certain of our existing mortgage loans to replace LIBOR with SOFR or other alternative reference rates, which could require us to incur significant expense and may subject us to disputes or litigation over the appropriateness or comparability to the relevant replacement reference index. The transition from LIBOR to SOFR or other alternative reference rates may also introduce operational risks in our accounting, financial reporting, loan servicing, liability management and other aspects of our business. We are assessing the impact of a transition from LIBOR; however, we cannot reasonably estimate the impact of the transition at this time.

We are highly dependent on the information systems of Ares Management and systems failures could significantly disrupt our business, which may, in turn, negatively affect the market price of our common stock and our ability to pay dividends.

Our business is highly dependent on communications and information systems of Ares Management. Any failure or interruption of Ares Management's systems could cause delays or other problems in our business, which could have a material adverse effect on our operating results and negatively affect the market price of our common stock and our ability to pay dividends to our stockholders.

If we fail to comply with laws, regulations and market standards regarding the privacy, use and security of customer information, we may be subject to legal and regulatory actions and our reputation would be harmed, which would materially adversely affect us.

We receive, maintain and store the non-public personal information of our loan applicants. The technology and other controls and processes designed to secure our customer information and to prevent, detect and remedy any unauthorized access to that information were designed to obtain reasonable, not absolute, assurance that such information is secure and that any unauthorized access is identified and addressed appropriately. Accordingly, such controls may not have detected, and may in the future fail to prevent or detect, unauthorized access to our borrower information. If this information is inappropriately accessed and used by a third party or an employee for illegal purposes, such as identity theft, we may be responsible to the affected applicant or borrower for any losses he or she may have incurred as a result of misappropriation. In such an instance, we may be liable to a governmental authority for fines or penalties associated with a lapse in the integrity and security of our customers' information, which could materially adversely affect us.

RISKS RELATED TO SOURCES OF FINANCING AND HEDGING

We may incur significant debt, which may subject us to increased risk of loss and may reduce cash available for distributions to our stockholders.

We borrow funds under the Financing Agreements and the CLO Securitizations. As of December 31, 2021, we had approximately $1.0 billion of outstanding borrowings under the Financing Agreements and $864.8 million outstanding under the CLO Securitizations. Subject to market conditions and availability, we may incur significant debt through bank credit facilities (including term loans and revolving facilities), repurchase agreements, warehouse facilities and structured financing arrangements, public and private debt issuances and derivative instruments, in addition to transaction or asset specific funding arrangements. The percentage of leverage we employ will vary depending on our available capital, our ability to obtain and access financing arrangements with lenders, debt restrictions contained in those financing arrangements and the lenders' and rating agencies' estimate of the stability of our investment portfolio's cash flow. We may significantly increase the amount of leverage we utilize at any time without approval of our board of directors. In addition, we may leverage individual assets at substantially higher levels. Incurring substantial debt could subject us to many risks that, if realized, would materially and adversely affect us, including the risk that:

- our cash flow from operations may be insufficient to make required payments of principal of and interest on the debt or we may fail to comply with all of the other covenants contained in the debt, which is likely to result in (a) acceleration of such debt (and any other debt containing a cross-default or cross-acceleration provision) that we may be unable to repay from internal funds or to refinance on favorable terms, or at all, (b) our inability to borrow unused amounts under our financing arrangements, even if we are current in payments on borrowings under those arrangements, and/or (c) the loss of some or all of our assets to foreclosure or sale;

- our debt may increase our vulnerability to adverse economic and industry conditions with no assurance that investment yields will increase with higher financing costs;

- we may be required to dedicate a substantial portion of our cash flow from operations to payments on our debt, thereby reducing funds available for operations, future business opportunities, stockholder distributions or other purposes;

- we are not able to refinance debt that matures prior to the investment it was used to finance on favorable terms, or at all; and

- as the holder of the subordinated classes of securitizations, we may be required to absorb losses.

Our CLO Securitizations contain certain senior note overcollateralization ratio tests and future securitizations may be subject to similar tests. The value of loans in our CLO Securitizations which are subject to default or are materially modified are reduced for the purposes of the senior note overcollateralization ratio in accordance with the indenture. To the extent we fail to meet these tests, amounts that would otherwise be used to make payments on the subordinate securities that we hold will be used to repay principal on the more senior securities to the extent necessary to satisfy the senior note overcollateralization ratio and we may incur significant losses. There can be no assurance that our leveraging strategy will be successful.

The Financing Agreements impose, and any additional lending facilities will impose, restrictive covenants and other restrictions.

We borrow funds under the Financing Agreements. The documents that govern the Financing Agreements and our securitizations contain, and any additional lending facilities would be expected to contain, customary negative covenants and other financial and operating covenants, that among other things, may affect our ability to incur additional debt, make certain investments or acquisitions, reduce liquidity below certain levels, make distributions to our stockholders, redeem debt or equity securities, make other restricted payments, impose asset concentration limits, impact our flexibility to determine our operating policies and investment strategies. For example, certain of the Financing Agreements contain negative covenants that limit, among other things, our ability to repurchase our common stock, distribute more than a certain amount of our net income to our stockholders, employ leverage beyond certain amounts, sell assets, engage in mergers or consolidations, grant liens, and enter into transactions with affiliates (including amending the Management Agreement in a material respect). Certain of the restrictive covenants that apply to the Financing Agreements are further described in Note 6 to our consolidated financial statements included in this annual report on Form 10-K. If we fail to meet or satisfy any of these covenants, we would be in default under these agreements, and our lenders could elect to declare outstanding amounts due and payable, terminate their commitments, require the posting of additional collateral, including cash to satisfy margin calls, and enforce their interests against existing collateral. We are also subject to cross-default and acceleration provisions and, with respect to collateralized debt, the posting of additional collateral, including cash to satisfy margin calls, and foreclosure rights upon default. Further, these restrictions could also make it difficult for us to satisfy the qualification requirements necessary to maintain our status as a REIT.

Monetary policy actions by the United States Federal Reserve, including a continuation of the historically low interest rate environment, could adversely impact our financial condition.

We are affected by the fiscal and monetary policies of the United States Government and its agencies, including the policies of the Federal Reserve, which regulates the supply of money and credit in the United States. Changes in fiscal and monetary policies are beyond our control and are difficult to predict. After steadily increasing the target federal funds rate in 2018 and 2017, the Federal Reserve in 2019 decreased the target federal funds rate by 75 basis points, and in response to the COVID-19 pandemic, decreased the federal funds rate by an additional 150 basis point decrease to near 0.00% in 2020 and 2021. However, the Federal Reserve has indicated it expects to increase rates starting in 2022, in three one quarter point increases, and then in 2023 and 2024. Changes in the federal funds rate as well as the other policies of the Federal Reserve affect interest rates, which have a significant impact on the demand for CRE loans. Changes in fiscal and monetary policies are beyond our control, are difficult to predict and could adversely affect us.

Fluctuations in interest rates and credit spreads could increase our financing costs and reduce our ability to generate income on our investments, each of which could lead to a significant decrease in our results of operations, cash flows and the market value of our investments.

Our primary interest rate exposures relate to the yield on our investments and the financing cost of our debt as well as interest rate swaps that we may utilize for hedging purposes. Changes in interest rates and credit spreads may affect our net interest margin, which is the difference between the interest income we earn on our interest-earning investments and the interest expense we incur in financing these investments. Fluctuations in interest rates and credit spreads resulting in our interest expense exceeding interest income would result in operating losses for us. Changes in the level of interest rates and credit spreads also may affect our ability to make investments, the value of our investments and our ability to realize gains from the disposition of assets. Changes in interest rates and credit spreads may also negatively affect demand for loans and could result in higher borrower default rates.

To the extent that our financing costs will be determined by reference to floating rates, such as LIBOR, SOFR or a Treasury index, plus a margin, the amount of such costs will depend on a variety of factors, including, without limitation, (a) for collateralized debt, the value and liquidity of the collateral, and for non-collateralized debt, our credit, (b) the level and movement of interest rates, and (c) general market conditions and liquidity. Market credit spread over LIBOR or SOFR is affected similarly by changes in LIBOR or SOFR spreads. In a period of rising interest rates or widening credit spreads, our interest expense on floating rate debt would increase, while any additional interest income we earn on our floating rate investments may be subject to caps or may be subject to a tighter credit spread and as a result may not compensate for such increase in interest expense. At the same time, the interest income we earn on our fixed rate investments would not change, the duration and weighted average life of our fixed rate investments would increase and the market value of our fixed rate investments would decrease. Similarly, in a period of declining interest rates or tightening credit spreads, our interest income on floating rate investments would decrease, while any decrease in the interest we are charged on our floating rate debt may be

subject to floors and not compensate for such decrease in interest income or tightened credit spread. Additionally, the interest we are charged on our fixed rate debt would not change. Any such scenario could materially and adversely affect us.

Our operating results will depend, in part, on differences between the income earned on our investments, net of credit losses, and our financing costs. The yields we earn on our floating-rate assets and our borrowing costs tend to move in the same direction in response to changes in interest rates and credit spreads. However, one can rise or fall faster than the other, causing our net interest margin or our credit spreads to expand or contract. In addition, we could experience reductions in the yield on our investments and an increase in the cost of our financing. Although we seek to match the terms of our liabilities to the expected lives of loans that we acquire or originate, circumstances may arise in which our liabilities are shorter in duration than our assets, resulting in their adjusting faster in response to changes in interest rates and credit spreads. For any period during which our investments are not match-funded, the income earned on such investments may respond more slowly to interest rate and credit spread fluctuations than the cost of our borrowings. Consequently, changes in interest rates and credit spreads, particularly short-term interest rates and credit spreads, may immediately and significantly decrease our results of operations and cash flows and the market value of our investments.

Significant fluctuations in interest rates and credit spreads as well as protracted periods of increases or decreases in interest rates and credit spreads could adversely affect the operation and income of multifamily and other CRE properties, as well as the demand from investors for CRE debt in the secondary market. In particular, higher interest rates and widening credit spreads tend to decrease the number of loans originated. An increase in interest rates or widening credit spreads could cause refinancing of existing loans to become less attractive and qualifying for a loan to become more difficult. However, a decrease in interest rates or tightening credit spreads will increase the likelihood that certain holdings will be refinanced at lower rates that would negatively impact our earnings.

The Financing Agreements and any bank credit facilities and repurchase agreements that we may use in the future to finance our assets may require us to provide additional collateral or pay down debt.

We borrow funds under the Financing Agreements. We anticipate that we will also utilize additional bank credit facilities or repurchase agreements (including term loans and revolving facilities) to finance our assets if they become available on acceptable terms. Such financing arrangements would involve the risk that the value of the loans or securities pledged or sold by us to the provider of the bank credit facility or repurchase agreement counterparty may decline in value, in which case the lender may require us to provide additional collateral, including cash to satisfy margin calls, or to repay all or a portion of the funds advanced. With respect to certain facilities, subject to certain conditions, our lenders retain sole discretion over the market value of loans or securities that serve as collateral for the borrowings under such facilities for purposes of determining whether we are required to pay margin to such lenders. We may not have the funds available to repay our debt at that time, which would likely result in defaults unless we are able to raise the funds from alternative sources, which we may not be able to achieve on favorable terms or at all. Posting additional collateral would reduce our liquidity and limit our ability to leverage our assets. If we cannot meet these requirements, the lender could accelerate our indebtedness, increase the interest rate on advanced funds and terminate our ability to borrow funds from it, which could materially and adversely affect our financial condition and ability to implement our investment strategy. In addition, if the lender files for bankruptcy or becomes insolvent, our loans may become subject to bankruptcy or insolvency proceedings, thus depriving us, at least temporarily, of the benefit of these assets. Such an event could restrict our access to bank credit facilities and increase our cost of capital. The providers of bank credit facilities and repurchase agreement financing may also require us to maintain a certain amount of cash or set aside assets sufficient to maintain a specified liquidity position that would allow us to satisfy our collateral obligations. As a result, we may not be able to leverage our assets as fully as we would choose, which could reduce our return on assets. If we are unable to meet these collateral obligations, our financial condition and prospects could deteriorate rapidly.

In addition, if a counterparty to our repurchase transactions defaults on its obligation to resell the underlying security back to us at the end of the transaction term, or if the value of the underlying security has declined as of the end of that term, or if we default on our obligations under the repurchase agreement, we will likely incur a loss on our repurchase transactions.

There can be no assurance that we will be able to obtain additional bank credit facilities or repurchase agreements on favorable terms, or at all.

Our access to sources of financing may be limited and thus our ability to grow our business and to maximize our returns may be adversely affected.

We borrow funds under various financing arrangements and our business requires a significant amount of funding capacity on an interim basis. Subject to market conditions and availability, we may incur significant additional debt through bank credit facilities (including term loans and revolving facilities), repurchase agreements, warehouse facilities and structured

financing arrangements, public and private debt issuances and derivative instruments, in addition to transaction or asset specific funding arrangements. We may also issue additional debt or equity securities to fund our growth.

Our access to sources of financing will depend upon a number of factors, over which we have little or no control, including:

- general economic or market conditions;
- the market's view of the quality of our assets;
- the market's perception of our growth potential;
- our current and potential future earnings and cash distributions; and
- the market price of the shares of our common stock.

From time to time, capital markets may experience periods of disruption and instability. See "Risk Factors—Risks Related to Our Business—The COVID-19 pandemic has caused severe disruptions in the global economy, which has had, and may continue to have, a negative impact on our business and operations" for several examples of instability in the capital markets caused by the COVID-19 pandemic. There can be no assurance that these market conditions will not continue or worsen in the future.

We will need to periodically access the capital markets to raise cash to fund new investments in excess of our repayments. A prolonged decline in the price of our shares of common stock compared to book value could negatively affect our access to these markets. We have elected and qualified for taxation as a REIT. Among other things, in order to maintain our REIT status, we are generally required to annually distribute to our stockholders an amount equal to at least 90% of our REIT taxable income, and, as a result, such distributions will not be available to fund investment originations. We must continue to borrow from financial institutions and issue additional securities to fund the growth of our investments and to ensure that we can meet ongoing maturities of our outstanding debt. Unfavorable economic or capital market conditions may increase our funding costs, limit our access to the capital markets or could result in a decision by our potential lenders not to extend credit. An inability to successfully access the capital markets could limit our ability to grow our business and fully execute our business strategy and could decrease our earnings, if any. In addition, weakness in the capital and credit markets could adversely affect one or more private lenders and could cause one or more of our private lenders to be unwilling or unable to provide us with financing or to increase the costs of that financing. In addition, if regulatory capital requirements imposed on our private lenders change, they may be required to limit, or increase the cost of, financing they provide to us. In general, this could potentially increase our financing costs and reduce our liquidity or require us to sell assets at an inopportune time or price. No assurance can be given that we will be able to obtain any such financing (including any replacement financing for our current financing arrangements) on favorable terms or at all.

Lender consent rights under our warehouse facilities may limit our ability to originate or acquire assets

In order to borrow funds to originate or acquire assets under our warehouse facilities, the lenders thereunder have the right to approve the potential assets for which we are seeking financing. We may be unable to obtain the consent of a lender to originate or acquire assets that we believe would be beneficial to us and we may be unable to obtain alternate financing for such assets.

We have utilized and may continue to utilize in the future non-recourse long-term securitizations. Such structures may expose us to risks which could result in losses.

We have utilized and, if available, we may utilize in the future non-recourse long-term securitizations of our investments in mortgage loans, especially loan originations, if and when they become available. Prior to any such financing, we may seek to finance these investments with relatively short-term facilities until a sufficient portfolio is accumulated. As a result, we would be subject to the risk that we would not be able to originate or acquire, during the period that any short-term facilities are available, sufficient eligible assets to maximize the efficiency of securitizations. We also would bear the risk that we would not be able to obtain new short-term facilities or would not be able to renew any short-term facilities after they expire should we need more time to seek and originate or acquire sufficient eligible assets for securitizations. In addition, conditions in the capital markets, including volatility and disruption in the capital and credit markets, may not permit non-recourse securitizations at any particular time or may make the issuance of any such securitizations less attractive to us even when we do have sufficient eligible assets. While we would intend to retain the unrated equity component of securitizations and, therefore, still have

exposure to any investments included in such securitizations, our inability to enter into such securitizations would increase our overall exposure to risks associated with direct ownership of such investments, including the risk of default, as we may have utilized recourse facilities to finance such investments. Our inability to refinance any short-term facilities would also increase our risk because borrowings thereunder would likely be recourse to us as an entity. If we are unable to obtain and renew short-term facilities or to consummate securitizations to finance our investments on a long-term basis, we may be required to seek other forms of potentially less attractive financing or to liquidate assets at an inopportune time or price.

Moreover, we may also suffer losses if the value of the mortgage loans we originate declines prior to securitizations. Declines in the value of a mortgage loan can be due to, among other things, changes in interest rates and changes in the credit quality of the loan. In addition, we may suffer a loss due to the incurrence of transaction costs related to executing these transactions. To the extent that we incur a loss executing or participating in future securitizations for the reasons described above or for other reasons, it could materially and adversely impact our business and financial condition.

The securitization process is subject to an evolving regulatory environment that may affect certain aspects of our current business.

The pools of commercial loans that we may originate, securitize or acquire as asset-backed securities and for which we act as special servicer are structures commonly referred to as securitizations. As a result of the dislocation of the credit markets, and in anticipation of more extensive regulation, including regulations promulgated pursuant to the Dodd-Frank Act, the securitization industry crafted and continues to craft changes to securitization practices, including changes to representations and warranties in securitization transaction documents, new underwriting guidelines and disclosure guidelines. Pursuant to the Dodd-Frank Act, various federal agencies, including the SEC (collectively, “the agencies”) have promulgated regulations with respect to issues that affect securitizations. Pursuant to Regulation AB and other rules, issuers of registered asset-backed securities are subject to significant disclosure, review and reporting requirements. The SEC has indicated that extended disclosure requirements similar to those applicable to registered offerings remain under consideration with respect to private offerings of asset-backed securities. In addition, pursuant to rules adopted by the agencies, securitizers in both public and private securitization transactions are required to retain at least 5% of the risk associated with the securities, subject to certain exceptions, which we are subject to in our securitizations. These regulations, and other proposed regulations affecting securitization, could alter the structure of securitizations in the future, pose additional risks to our participation in future securitizations or reduce or eliminate the economic incentives for participating in future securitizations, increase the costs associated with our origination, securitization or acquisition activities, or otherwise increase the risks or costs of our doing business.

We may enter into hedging transactions that could expose us to contingent liabilities in the future.

Subject to maintaining our qualification as a REIT, part of our investment strategy will involve entering into hedging transactions that could require us to fund cash payments in certain circumstances (such as the early termination of the hedging instrument caused by an event of default or other early termination event, or the decision by a counterparty to request margin securities it is contractually owed under the terms of the hedging instrument). The amount due would be equal to the unrealized loss of the open swap positions with the respective counterparty and could also include other fees and charges. Any such economic losses will be reflected in our results of operations, and our ability to fund these obligations will depend on the liquidity of our assets and access to capital at the time, and the need to fund these obligations could adversely impact our financial condition.

Hedging against interest rate or currency exposure may adversely affect our earnings, which could reduce our cash available for distribution to our stockholders.

Subject to maintaining our qualification as a REIT, we may pursue various hedging strategies to seek to reduce our exposure to adverse changes in interest rates or currencies. This hedging activity may vary in scope based on the level and volatility of interest rates, the type of assets held and other changing market conditions.

We regularly measure our exposure to interest rate risk and assess interest rate risk and manage our interest rate exposure on an ongoing basis by comparing our interest rate sensitive assets to our interest rate sensitive liabilities. Based on that review, we determine whether or not we should enter into hedging transactions and derivative financial instruments, such as forward sale commitments and interest rate floors in order to mitigate our exposure to changes in interest rates. While hedging activities may mitigate our exposure to adverse fluctuations in interest rates, certain hedging transactions that we have entered into or may enter into in the future, such as interest rate swap agreements, may also limit our ability to participate in the benefits of lower interest rates with respect to our investments. In addition, interest rate hedging may fail to protect or could adversely affect us because, among other things:

- interest rate hedging can be expensive, particularly during periods of rising and volatile interest rates;
- available interest rate hedges may not correspond directly with the interest rate risk for which protection is sought;
- due to a credit loss, the duration of the hedge may not match the duration of the related liability;
- the amount of income that a REIT may earn from hedging transactions (other than hedging transactions that satisfy certain requirements of the Code or that are done through a TRS) to offset interest rate losses is limited by United States federal income tax provisions governing REITs;
- legal, tax and regulatory changes could occur and may adversely affect our ability to pursue our hedging strategies and/or increase the costs of implementing such strategies;
- the credit quality of the hedging counterparty owing money on the hedge may be downgraded to such an extent that it impairs our ability to sell or assign our side of the hedging transaction; and
- the hedging counterparty owing money in the hedging transaction may default on its obligation to pay.

In addition, we may fail to recalculate, readjust and execute hedges in an efficient manner. Any hedging activity in which we engage may materially and adversely affect our business. Therefore, while we may enter into such transactions seeking to reduce interest rate risks, unanticipated changes in interest rates may result in poorer overall investment performance than if we had not engaged in any such hedging transactions. In addition, the degree of correlation between price movements of the instruments used in a hedging strategy and price movements in the portfolio positions or liabilities being hedged may vary materially. Moreover, for a variety of reasons, we may not seek to establish a perfect correlation between such hedging instruments and the portfolio positions or liabilities being hedged. Any such imperfect correlation may prevent us from achieving the intended hedge and expose us to risk of loss.

Hedging instruments often are not traded on regulated exchanges or guaranteed by an exchange or its clearing house, and involve risks and costs that could result in material losses.

The cost of using hedging instruments increases as the period covered by the instrument increases and during periods of rising and volatile interest rates, we may increase our hedging activity and thus increase our hedging costs. In addition, hedging instruments involve risk since they often are not traded on regulated exchanges or guaranteed by an exchange or its clearing house. Consequently, there are no requirements with respect to record keeping, financial responsibility or segregation of customer funds and positions. Furthermore, the enforceability of agreements underlying hedging transactions may depend on compliance with applicable statutory and commodity and other regulatory requirements and, depending on the identity of the counterparty, applicable international requirements. The business failure of a hedging counterparty with whom we enter into a hedging transaction will most likely result in its default. Default by a party with whom we enter into a hedging transaction may result in the loss of unrealized profits and force us to cover our commitments, if any, at the then current market price. Although generally we will seek to reserve the right to terminate our hedging positions, it may not always be possible to dispose of or close out a hedging position without the consent of the hedging counterparty and we may not be able to enter into an offsetting contract in order to cover our risk. We cannot assure you that a liquid secondary market will exist for hedging instruments purchased or sold, and we may be required to maintain a position until exercise or expiration, which could result in significant losses.

We may fail to qualify for hedge accounting treatment.

We intend to record derivative and hedging transactions in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 815, *Derivatives and Hedging* (“ASC 815”). Under these standards, we may fail to qualify for hedge accounting treatment for a number of reasons, including if we use instruments that do not meet the FASB ASC 815 definition of a derivative (such as short sales), we fail to satisfy FASB ASC 815 hedge documentation and hedge effectiveness assessment requirements or our instruments are not highly effective. If we fail to qualify for hedge accounting treatment, our operating results may suffer because unrealized losses on the derivatives that we enter into may not be offset by a change in the fair value of the related hedged transaction or item.

We may enter into derivative contracts that could expose us to contingent liabilities in the future.

Subject to maintaining our qualification as a REIT, we may enter into derivative contracts that could require us to fund cash payments in the future under certain circumstances (*e.g.*, the early termination of the derivative agreement caused by an event of default or other early termination event, or the decision by a counterparty to request margin securities it is contractually owed under the terms of the derivative contract). The amount due would be equal to the unrealized loss of the open swap positions with the respective counterparty and could also include other fees and charges. These economic losses may materially and adversely affect our business.

We are currently exempt from being regulated as a commodity pool operator in part because we comply with certain restrictions regarding our use of certain derivative instruments, and failure to comply with such restrictions could subject us to additional regulation and compliance requirements which could materially adversely affect our business and financial condition.

Rules under the Dodd-Frank Act have established a comprehensive regulatory framework for derivative contracts commonly referred to as “swaps.” Under these rules, any investment fund that trades in swaps may be considered a “commodity pool,” which would cause its directors to be regulated as “commodity pool operators,” or “CPOs.” Unless an exemption is available, a CPO must register with the United States Commodity Futures Trading Commission (the “CFTC”) and become a member of the National Futures Association (the “NFA”), which requires compliance with NFA’s rules, and renders such CPO subject to regulation by the CFTC, including with respect to disclosure, reporting, recordkeeping and business conduct.

We may use hedging instruments in conjunction with our investment portfolio and related borrowings to reduce or mitigate risks associated with changes in interest rates, mortgage spreads, yield curve shapes, currency fluctuations and market volatility. These hedging instruments could include interest rate swaps, interest rate futures and options on interest rate futures, each of which is considered a “swap” under CFTC rules. We submitted a claim for relief from any registration requirements pursuant to a no-action letter issued by the CFTC for mortgage REITs. In order to qualify for relief from registration, we are restricted to using swaps within certain specific parameters, including a limitation that our annual income derived from commodity interest trading be less than 5% of our gross annual income and that the initial margin and premiums required to establish commodity interest positions be no more than 5% of the fair market value of our total assets. If we fail to comply with the applicable restrictions, our directors may be compelled to register as CPOs, or we may be required to seek other hedging instruments or techniques at increased cost to us, or that may not be as effective as the use of swaps.

RISKS RELATED TO OUR INVESTMENTS

We will allocate our available capital without input from our stockholders.

You will not be able to evaluate the manner in which our available capital is invested or the economic merit of our expected investments. As a result, we may use our available capital to make investments with which you may not agree. Additionally, our investments will be selected by our Manager and our stockholders will not have input into such investment decisions. Both of these factors will increase the uncertainty, and thus the risk, of investing in our securities. The failure of our Manager to apply this capital effectively or find investments that meet our investment criteria in sufficient time or on acceptable terms could result in unfavorable returns, could cause a material adverse effect on our business, financial condition, liquidity, results of operations and ability to make distributions to our stockholders, and could cause the value of our common stock to decline.

Until appropriate investments can be identified, our Manager may invest our available capital in interest-bearing short-term investments, including money market accounts or funds, commercial mortgage-backed securities, or corporate bonds, which are consistent with our intention to qualify as a REIT. These investments are expected to provide a lower net return than we seek to achieve from investments in our target investments. Our Manager intends to conduct due diligence with respect to each investment and suitable investment opportunities may not be immediately available. Even if opportunities are available, there can be no assurance that our Manager’s due diligence processes will uncover all relevant facts or that any investment will be successful.

We cannot assure you that (i) we will be able to enter into definitive agreements to invest in any new investments that meet our investment objective, (ii) we will be successful in consummating any investment opportunities we identify or (iii) one or more investments we may make will yield attractive risk-adjusted returns. Our inability to do any of the foregoing likely would materially and adversely affect our business and our ability to make distributions to our stockholders.

The lack of liquidity in our investments may adversely affect our business.

The illiquidity of our target investments may make it difficult for us to sell such investments if the need or desire arises. Certain target investments such as senior mortgage loans, subordinated debt, preferred equity, mezzanine loans and other CRE investments are also particularly illiquid investments due to their short life, their potential unsuitability for securitization and the greater difficulty of recovery in the event of a borrower's default. In addition, many of the loans and securities we invest in will not be registered under the relevant securities laws, resulting in a prohibition against their transfer, sale, pledge or disposition except in a transaction that is exempt from the registration requirements of, or otherwise in accordance with, those laws. As a result, we expect many of our investments will be illiquid, and if we are required to liquidate all or a portion of our portfolio quickly, we may realize significantly less than the value at which we have previously recorded investments. Further, we may face other restrictions on our ability to liquidate an investment in a business entity to the extent that we or our Manager has or could be attributed as having material, non-public information regarding such business entity. As a result, our ability to vary our portfolio in response to changes in economic and other conditions may be relatively limited, which could adversely affect our results of operations and financial condition.

Our portfolio is concentrated in a limited number of loans, which subjects us to a risk of significant loss if any of these loans default.

As of December 31, 2021 and 2020, our portfolio totaled 72 and 50 loans held for investment, respectively. The number of loans in which we are invested may be higher or lower depending on the amount of our assets under management at any given time, market conditions and the extent to which we employ leverage, and will likely fluctuate over time. A consequence of this limited number of investments is that the aggregate returns we realize may be significantly adversely affected if a small number of investments perform poorly, if we need to write down the value of any one investment or if an investment is repaid prior to maturity and we are not able to promptly redeploy the proceeds. We do not have fixed guidelines for diversification, and our investments could be concentrated in relatively few loans.

While we intend to continue to diversify our portfolio of investments in the manner described in our filings with the SEC, we do not have fixed guidelines for diversification. As a result, our investments could be concentrated in relatively few loans and/or relatively few property types. If our portfolio of target investments is concentrated in certain property types that are subject to higher risk of foreclosure, or secured by properties concentrated in a limited number of geographic locations, downturns relating generally to such region or type of asset may result in defaults on a number of our investments within a short time period, which may reduce our net income and the value of our common stock and accordingly reduce our ability to pay dividends to our stockholders.

We may invest in multiple secured loans that share a common sponsor. We do not have a limit on the amount of total gross offering proceeds that can be held by multiple borrowers that share the same sponsor. We may face greater credit risk to the extent a large portion of our portfolio is concentrated in loans to multiple borrowers that share the same sponsor.

A prolonged economic slowdown, a lengthy or severe recession or further declines in real estate values could impair our investments and harm our operations.

We believe the risks associated with our business will be more severe during periods of economic slowdown or recession if these periods are accompanied by declining real estate values. For example, the COVID-19 pandemic has had a particularly adverse impact on certain industries whose properties serve as collateral for some of our portfolio of loan investments. Certain of our investments in loans collateralized by properties within other industries have also been significantly impacted by the COVID-19 pandemic. The inability of our borrowers' tenants to pay rent on their leases or our borrowers' inability to re-lease space that becomes vacant, may adversely impact the ability of the borrowers to which we lend to continue to meet loan covenants or to make payments on their loans on a timely basis or at all. Consequently, our investment model may be adversely affected by prolonged economic downturns or recessions where declining real estate values would likely reduce the level of new mortgage and other real estate-related loan originations, since borrowers often use appreciation in the value of their existing properties to support the purchase or investment in additional properties. Further, declining real estate values significantly increase the likelihood that we will incur losses on our loans in the event of default because the value of our collateral may be insufficient to cover our cost on the loan. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect our Manager's ability to invest in, sell and securitize loans, which would materially and adversely affect our results of operations, financial condition, liquidity and business and our ability to pay dividends to stockholders.

Our real estate investments are subject to risks particular to real property. These risks may result in a reduction or elimination of, or return from, a loan secured by a particular property.

We may own CRE directly in the future as a result of a default of mortgage or other real estate related loans. Real estate investments are subject to various risks, including:

- acts of God, pandemics such as COVID-19, earthquakes, floods and other natural disasters, which may result in uninsured losses;
- political events, civil or military disturbances; acts of war or terrorism, including the consequences of terrorist attacks;
- adverse changes in national and local economic and market conditions, including local markets with a significant exposure to the energy sector, which may be affected by the current low prices of oil and related gas that could adversely affect the success of tenants in that industry;
- changes in governmental laws and regulations (including their interpretations), fiscal policies and zoning ordinances and the related costs of compliance with laws and regulations, fiscal policies and ordinances;
- costs of remediation and liabilities associated with environmental conditions such as indoor mold; and
- the potential for uninsured or under-insured property losses.

If any of these or similar events occur, it may reduce our return from an affected property or investment and services and reduce or eliminate our ability to pay dividends to our stockholders.

The CRE loans we originate and the mortgage loans underlying any commercial mortgage-backed securities investments that we may make will be subject to the ability of the commercial property owner to generate net income from operating the property, as well as the risks of delinquency and foreclosure.

Our CRE loans are secured by commercial and multifamily properties and are subject to risks of delinquency and foreclosure, and risks of loss that may be greater than similar risks associated with loans made on the security of single-family residential property. The ability of a borrower to repay a loan secured by an income-producing property typically is dependent primarily upon the successful operation of such property rather than upon the existence of independent income or assets of the borrower. If the net operating income of the property is reduced, the borrower’s ability to repay the loan may be impaired. Net operating income of an income-producing property can be adversely affected by, among other things, the following:

- tenant mix;
- success of tenant businesses;
- property management decisions;
- property location, condition and design;
- competition from comparable types of properties;
- changes in laws that increase operating expenses or limit rents that may be charged;
- changes in national, regional or local economic conditions and/or specific industry segments, including the credit and securitization markets;
- declines in regional or local real estate values;
- changes in local markets in which our tenants operate, including changes in oil and gas prices;
- declines in regional or local rental or occupancy rates;
- increases in interest rates, real estate tax rates and other operating expenses;

- costs of remediation and liabilities associated with environmental conditions;
- the potential for uninsured or underinsured property losses;
- the potential for casualty or condemnation loss;
- changes in governmental laws and regulations, including fiscal policies, zoning ordinances and environmental legislation and the related costs of compliance;
- changes in supply (resulting from the recent growth in CRE debt funds or otherwise) and demand; and
- acts of God, pandemics, terrorist attacks, social unrest and civil disturbances.

In the event of any default under a mortgage loan held directly by us, we will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the mortgage loan, which could have a material adverse effect on our cash flow from operations and limit amounts available for distribution to our stockholders. In the event of the bankruptcy of a mortgage loan borrower, the mortgage loan to such borrower will be deemed to be secured only to the extent of the value of the underlying collateral at the time of bankruptcy (as determined by the bankruptcy court), and the lien securing the mortgage loan will be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession to the extent the lien is unenforceable under state law. Foreclosure of a mortgage loan can be an expensive and lengthy process, which could have a substantial negative effect on our anticipated return on the foreclosed mortgage loan.

We are subject to various risks related to our ownership of certain real property, including hotel properties.

Real property we own and not used in the ordinary course of our operations, including hotel properties, subjects us to risks particular to CRE property. In particular, ownership of hotel properties subjects us to various operating risks common to the lodging industry, many of which are beyond our control, including the following:

- competition from other hotel properties and non-hotel properties that provide nightly and short-term rentals;
- over-building of hotels, which could adversely affect occupancy and revenues;
- dependence on business and commercial travelers, conventions and tourism;
- dependence on the operator/franchisor of the hotel, as management/franchise agreements are long-term in nature and have limited termination rights;
- increases in energy costs, airplane fares, government taxes and fees, and other expenses affecting travel, which may affect travel patterns and reduce the number of business and commercial travelers and tourists;
- increases in operating costs due to increased operating expenses, including employment costs, inflation and other factors that may not be offset by increased room rates;
- adverse effects of international, national, regional and local economic and market conditions;
- potential claims, litigation and threatened litigation from guests, visitors to hotel properties, employees, vendors, contractors, sub-contractors and others;
- costs associated with the ongoing need for renovations and other capital improvements, including the replacement of furniture, fixtures and equipment;
- labor strikes, disputes or disruptions, including as a result of unionized labor;
- unforeseen events beyond our control, such as terrorist attacks, cyber-attacks, travel-related health concerns including pandemics and epidemics (such as COVID-19), political instability, regional hostilities, imposition of taxes or surcharges by regulatory authorities, travel-related accidents and unusual weather patterns, including natural disasters such as hurricanes, tsunamis or earthquakes;

- strength of the United States dollar which may reduce in-bound international travel and encourage out-bound international travel;
- adverse effects of a downturn in the lodging industry; and
- risks generally associated with the ownership of hotel properties and real estate.

Moreover, our ability to sell CRE, including hotel properties, is affected by public perception that banks are inclined to accept large discounts from market value in order to quickly liquidate properties. Any material decrease in market prices may lead to CRE write-downs, with a corresponding expense in our statement of operations. Write-downs on CRE or an inability to sell CRE properties could have a material adverse effect on our future business, results of operations, financial condition and the value of our common stock. Furthermore, the management and resolution of CRE increases our costs and requires significant commitments of time from our management and directors, which can be detrimental to the performance of their other responsibilities.

Prepayment rates may adversely affect the value of our portfolio of assets.

Our net income and earnings may be affected by prepayment rates on our existing CRE loans. In periods of declining interest rates and/or credit spreads, prepayment rates on loans generally increase. Borrowers may seek to make prepayments as a result of LIBOR or other interest rate floors in our loans which could result in higher interest expense. If general interest rates or credit spreads decline at the same time, the proceeds of such prepayments received during such periods are likely to be reinvested by us in assets yielding less than the yields on the assets that were prepaid. In addition, the value of our assets may be affected by prepayment rates on loans. If we originate CRE loans, we expect borrowers will prepay at a projected rate generating an expected yield. When borrowers prepay their loans faster than expected, the corresponding prepayments on the CRE loans may reduce the expected yield on such loans. If prepayment rates decrease in a rising interest rate environment, borrowers exercise extension options on CRE loans or we extend the term of CRE loans, the life of the loans could extend beyond the term of the Financing Agreements that we borrow on to fund our CRE loans. This could have a negative impact on our results of operations. In some situations, we may be forced to fund additional cash collateral in connection with the Financing Agreements or sell assets to maintain adequate liquidity, which could cause us to incur losses.

Prepayment rates on loans may be affected by a number of factors including, but not limited to, the then-current level of interest rates and credit spreads, the availability of mortgage credit, the relative economic vitality of the area in which the related properties are located, the servicing of the loans, possible changes in tax laws, other opportunities for investment, and other economic, social, geographic, demographic and legal factors and other factors beyond our control. Consequently, such prepayment rates cannot be predicted with certainty and no strategy can completely insulate us from prepayment or other such risks.

In addition, principal repayments from mortgage loans in commercial mortgage-backed securities and collateralized loan obligations are applied sequentially, first going to pay down the senior commercial mortgage-backed securities and collateralized loan obligations. Accordingly, we will not receive any proceeds from repayment of loans in commercial mortgage-backed securities or collateralized loan obligations until all senior notes are repaid in full, which could materially and adversely impact our liquidity, capital resources and financial condition.

If we are unable to successfully integrate new assets and manage our growth, our results of operations and financial condition may suffer.

We have in the past and may in the future significantly increase the size and/or change the mix of our portfolio of assets. We may be unable to successfully and efficiently integrate newly acquired assets into our existing portfolio or otherwise effectively manage our assets or our growth effectively. In addition, increases in our portfolio of assets and/or changes in the mix of our assets may place significant demands on our Manager's administrative, operational, asset management, financial and other resources. Any failure to manage increases in size effectively could adversely affect our results of operations and financial condition.

We operate in a competitive market for investment opportunities and loan originations and competition may limit our ability to originate or acquire our target investments on attractive terms.

A number of entities compete with us to make the types of investments that we seek to make and originate the types of loans that we seek to originate. Our profitability depends, in large part, on our ability to originate or acquire our target investments on attractive terms. In originating or acquiring our target investments, we compete with a variety of institutional

investors, including other REITs, specialty finance companies, public and private funds (including other funds managed by Ares Management), commercial and investment banks, CRE service providers, commercial finance and insurance companies and other financial institutions. Several other REITs have raised, or are expected to raise, significant amounts of capital, and may have investment objectives that overlap with ours, which may create additional competition for investment opportunities. Many of our anticipated competitors are significantly larger than we are and may have considerably greater financial, technical, marketing and other resources than we do. Some competitors may have a lower cost of funds and access to funding sources that are not available to us, such as the United States Government. Many of our competitors are not subject to the operating constraints associated with REIT tax compliance or maintenance of an exemption from the 1940 Act. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments, deploy more aggressive pricing and establish more relationships than us. Furthermore, competition for originations of and investments in our target investments may lead to the price of such assets increasing, which may further limit our ability to generate desired returns. We cannot assure you that the competitive pressures we face will not have a material adverse effect on our business, financial condition and results of operations. Also, as a result of this competition, desirable investments in our target investments may be limited in the future and we may not be able to take advantage of attractive investment opportunities from time to time, as we can provide no assurance that we will be able to identify and make investments that are consistent with our investment objectives.

If our Manager overestimates the yields or incorrectly prices the risks of our investments, we may experience losses.

Our Manager values our potential investments based on yields and risks, taking into account estimated future losses on the mortgage loans and the collateral underlying our mortgage loans and included in securitization pools, and the estimated impact of these losses on expected future cash flows and returns. Our Manager's loss estimates may not prove accurate, as actual results may vary from estimates. If our Manager underestimates the asset-level losses relative to the price we pay for a particular investment, we may experience losses with respect to such investment.

Loans on properties in transition will involve a greater risk of loss than traditional investment-grade mortgage loans with fully insured borrowers.

We may originate transitional loans secured by first lien mortgages on a property to borrowers who are typically seeking short-term capital to be used in an acquisition or rehabilitation of a property. The typical borrower under a transitional loan has usually identified an undervalued asset that has been under-managed and/or is located in a recovering market. If the market in which the asset is located fails to improve according to the borrower's projections, or if the borrower fails to improve the quality of the asset's management and/or the value of the asset, the borrower may not receive a sufficient return on the asset to satisfy the transitional loan, and we bear the risk that we may not recover some or all of our investment.

In addition, borrowers usually use the proceeds of a conventional mortgage to repay a transitional loan. Transitional loans therefore are subject to risks of a borrower's inability to obtain permanent financing to repay the transitional loan. Transitional loans are also subject to risks of borrower defaults, bankruptcies, fraud, losses and special hazard losses that are not covered by standard hazard insurance. In the event of any default under transitional loans that may be held by us, we bear the risk of loss of principal and non-payment of interest and fees to the extent of any deficiency between the value of the mortgage collateral and the principal amount and unpaid interest of the transitional loan. To the extent we suffer such losses with respect to these transitional loans, our net income and the value of our common stock may be adversely affected.

Risks of cost overruns and non-completion of renovation of the properties underlying short term senior loans on properties in transition may result in significant losses.

The renovation, refurbishment or expansion by a borrower under a mortgaged property involves risks of cost overruns and non-completion. Estimates of the costs of improvements to bring an acquired property up to standards established for the market position intended for that property may prove inaccurate. Other risks may include rehabilitation costs exceeding original estimates, possibly making a project uneconomical, environmental risks and rehabilitation and subsequent leasing of the property not being completed on schedule. If such renovation is not completed in a timely manner, or if it costs more than expected, the borrower may experience a prolonged impairment of net operating income and may not be able to make payments on our investment, which could result in significant losses.

Investments in non-investment grade rated CRE loans or securities involve increased risk of loss.

Many of our investments will not be rated or will be rated as non-investment grade by the rating agencies. The non-investment grade ratings for these assets typically result from the overall leverage of the loans, the lack of a strong operating history for the properties underlying the loans, the borrowers' credit history, the underlying properties' cash flow or other

factors. As a result, these investments should be expected to have a higher risk of default and loss than investment grade rated assets. Any loss we incur may be significant and may reduce distributions to our stockholders and adversely affect the market value of our common stock. There are no limits on the percentage of unrated or non-investment grade rated assets we may hold in our investment portfolio.

The B-Notes that we have originated or may originate or acquire in the future may be subject to additional risks related to the privately negotiated structure and terms of the transaction, which may result in losses to us.

We have originated and may continue to originate or acquire B-Notes. A B-Note is a mortgage loan typically (a) secured by a first mortgage on a single large commercial property or group of related properties and (b) subordinated to an A-Note secured by the same first mortgage on the same collateral. As a result, if a borrower defaults, there may not be sufficient funds remaining for B-Note holders after payment to the A-Note holders. Because each transaction is privately negotiated, B-Notes can vary in their structural characteristics and risks. For example, the rights of holders of B-Notes to control the process following a borrower default may vary from transaction to transaction. Further, B-Notes typically are secured by a single property and accordingly reflect the risks associated with significant concentration. Significant losses related to our B-Notes would result in operating losses for us and may limit our ability to make distributions to our stockholders.

Our mezzanine loan assets involve greater risks of loss than senior loans secured by real properties.

We have originated and may continue to originate or acquire mezzanine loans, which take the form of subordinated loans secured by second mortgages on the underlying property or loans secured by a pledge of the ownership interests of either the entity owning the property or a pledge of the ownership interests of the entity that owns the interest in the entity owning the property. These types of assets involve a higher degree of risk than senior mortgage loans secured by real property because the loan may become unsecured as a result of foreclosure by the senior lender. In the event of a bankruptcy of the entity providing the pledge of its ownership interests as security, we may not have full recourse to the assets of such entity or the assets of the entity may not be sufficient to satisfy our mezzanine loan. In addition, lenders can be subject to lender liability claims for actions taken by them where they become too involved in the borrower’s business or exercise control over the borrower. For example, we could become subject to a lender’s liability claim, if, among other things, we actually render significant managerial assistance.

If a borrower defaults on our mezzanine loan or debt senior to our loan, or in the event of a borrower bankruptcy, our mezzanine loan will be satisfied only after the senior debt. As a result, we may not recover some or all of our initial expenditure. In addition, mezzanine loans may have higher loan-to-value ratios than conventional mortgage loans, resulting in less equity in the property and increasing the risk of loss of principal. Significant losses related to our mezzanine loans would result in operating losses for us and may limit our ability to make distributions to our stockholders.

Investments in preferred equity involve a greater risk of loss than traditional debt financing.

We invest in and may continue to invest in real estate preferred equity, which involves a higher degree of risk than first mortgage loans due to a variety of factors, including the risk that, similar to mezzanine loans, such investments are subordinate to first mortgage loans and are not collateralized by property underlying the investment. Unlike mezzanine loans, preferred equity investments generally do not have a pledge of the ownership interests of the entity that owns the interest in the entity owning the property. Although as a holder of preferred equity we may enhance our position with covenants that limit the activities of the entity in which we hold an interest and protect our equity by obtaining an exclusive right to control the underlying property after an event of default, should such a default occur on our investment, we would only be able to proceed against the entity in which we hold an interest, and not the property owned by such entity and underlying our investment. As a result, we may not recover some or all of our investment.

Any credit ratings assigned to our investments will be subject to ongoing evaluations and revisions and we cannot assure you that those ratings will not be downgraded.

Some of our investments, including the notes issued in our securitization transactions for which we are required to retain a portion of the credit risk, may be rated by rating agencies such as Moody’s Investors Service, Fitch Ratings, Standard & Poor’s, DBRS, Inc. or Realpoint LLC. Any credit ratings on our investments are subject to ongoing evaluation by credit rating agencies, and we cannot assure you that any such ratings will not be changed or withdrawn by a rating agency in the future if, in its judgment, circumstances warrant. If rating agencies assign a lower-than-expected rating or reduce or withdraw, or indicate that they may reduce or withdraw, their ratings of our investments in the future, the value of our investments could significantly decline, which would adversely affect the value of our investment portfolio and could result in losses upon disposition or the failure of borrowers to satisfy their debt service obligations to us.

We may experience a decline in the fair value of our assets.

A decline in the fair market value of our assets may require us to recognize an “other-than-temporary” impairment against such assets under generally accepted accounting principles (“GAAP”), if we were to determine that, with respect to any assets in unrealized loss positions, we do not have the ability and intent to hold such assets to maturity or for a period of time sufficient to allow for recovery to the original acquisition cost of such assets. If such a determination were to be made, we will record an allowance to reduce the carrying value of the loan to the present value of expected future cash flows discounted at the loan’s contractual effective rate or the fair value of the collateral, if repayment is expected solely from the collateral. Such impairment charges reflect non-cash losses at the time of recognition; subsequent disposition or sale of such assets could further affect our future losses or gains, as they are based on the difference between the sale price received and adjusted amortized cost of such assets at the time of sale. If we experience a decline in the fair value of our assets, our results of operations, financial condition and our ability to make distributions to our stockholders could be materially and adversely affected.

Some of our portfolio investments may be recorded at fair value and, as a result, there will be uncertainty as to the value of these investments.

Some of our portfolio investments may be in the form of positions or securities that are not publicly traded. The fair value of securities and other investments that are not publicly traded may not be readily determinable. Currently, we do not have any financial instruments recorded at fair value on a recurring basis in our consolidated financial statements. We have not elected the fair value option for the remaining financial instruments, including loans held for investment, the Financing Agreements and securitization debt. Such financial instruments are carried at cost. For loans held for investment that are evaluated for impairment at least quarterly, we estimate the fair value of the instrument, which may include unobservable inputs. Because such valuations are subjective, the fair value of certain of our assets may fluctuate over short periods of time and our determinations of fair value may differ materially from the values that would have been used if a ready market for these securities existed. The value of our common stock could be adversely affected if our determinations regarding the fair value of these investments were materially higher than the values that we ultimately realize upon their disposal.

Additionally, our results of operations for a given period could be adversely affected if our determinations regarding the fair value of these investments were materially higher than the values that we ultimately realize upon their disposal.

New accounting standards may result in a significant change to our recognition of credit losses.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments,* which went into effect for us on January 1, 2020. The standard replaced the incurred loss impairment methodology pursuant to GAAP with a methodology that reflects CECL and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. Under the CECL model, we are required to present certain financial assets carried at amortized cost, such as loans held for investment, at the net amount expected to be collected. The measurement of expected credit losses is based on information about past events, including historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. This measurement takes place at the time the financial asset is first added to the balance sheet and updated quarterly thereafter. This differs from the incurred loss impairment methodology pursuant to GAAP, which delays recognition until it is probable a loss has been incurred. Accordingly, the CECL model affects how we determine our allowance for loan losses and requires us to increase our allowance and recognize provisions for loan losses earlier in the lending cycle. Moreover, the CECL model creates more volatility in the level of our allowance for loan losses. The increase to our level of allowance for loan losses may affect our business, financial condition and results of operations. The CECL model required us to recognize a one-time cumulative adjustment to retained earnings as of the beginning of the first reporting period in which the guidance became effective, which impacted our book value per diluted share of common stock in the first quarter of 2020.

If we invest in commercial mortgage-backed securities, such investments would pose additional risks, including the risks of the securitization process and the risk that the special servicer may take actions that could adversely affect our interests.

We may acquire existing commercial mortgage-backed securities (“CMBS”), including in the most subordinated classes of such commercial mortgage-backed securities and collateralized loan obligations (“CLO”). In general, losses on a mortgaged property securing a mortgage loan included in a securitization will be borne first by the equity holder of the property, then by a cash reserve fund or letter of credit, if any, then by the holder of a mezzanine loan or B-Note, if any, then by the “first loss” subordinated stockholder and then by the holder of a higher-rated security. In the event of default and the exhaustion of any equity support, reserve fund, letter of credit, mezzanine loans or B-Notes, and any classes of securities junior

to those in which we invest, we will not be able to recover all of our investment in the securities we purchase. In addition, if the underlying mortgage portfolio has been overvalued by the originator, or if the values subsequently decline and, as a result, less collateral value is available to satisfy interest and principal payments due on the related mortgage-backed securities. The prices of lower credit quality securities are generally less sensitive to interest rate changes than more highly rated investments, but more sensitive to adverse economic downturns or individual issuer developments. A projection of an economic downturn, for example, could cause a decline in the price of lower credit quality CMBS and CLOs because the ability of borrowers to make principal and interest payments on the mortgages or loans underlying such securities may be impaired, as had occurred throughout the global financial crisis.

Subordinate interests such as CLOs and similar structured finance investments generally are not actively traded and are relatively illiquid investments and volatility in CLO trading markets may cause the value of these investments to decline. In addition, if the underlying mortgage portfolio has been overvalued by the originator, or if the values subsequently decline and, as a result, less collateral value is available to satisfy interest and principal payments and any other fees in connection with the trust or other conduit arrangement for such securities, amounts that would otherwise be used to make payments on the subordinate securities will be used to repay principal on the more senior securities to the extent necessary to satisfy any senior note overcollateralization ratio and we may incur significant losses.

With respect to the CMBS and CLOs in which we may invest, overall control over the special servicing of the related underlying mortgage loans will be held by a “directing certificateholder” or a “controlling class representative,” which is appointed by the holders of the most subordinated class of commercial mortgage-backed securities in such series. Unless we acquire the subordinate classes of existing series of CMBS and CLOs, we will not have the right to appoint the directing certificateholder. In connection with the servicing of the specially serviced mortgage loans, the related special servicer may, at the direction of the directing certificateholder, take actions with respect to the specially serviced mortgage loans that could adversely affect our interests.

Real estate valuation is inherently subjective and uncertain.

The valuation of real estate and, therefore, the valuation of collateral underlying CRE loans made by us, is inherently subjective due to, among other factors, the individual nature of each property, its location, its expected future rental revenues and the valuation methodology adopted. The valuations of our real estate assets may not be precise and may be based on assumptions and methodologies that are inaccurate. Our valuations of our collateral properties may be wrong and we may incur losses.

We may invest in non-performing real estate loans and participations.

During an economic downturn or recession, securities of financially troubled or operationally troubled issuers are more likely to go into default than securities of other issuers. Securities of financially troubled issuers and operationally troubled issuers are less liquid and more volatile than securities of companies not experiencing these difficulties. The market prices of such securities are subject to erratic and abrupt market movements and the spread between bid and ask prices may be greater than normally expected. Investment in the securities of financially troubled issuers and operationally troubled issuers involves a high degree of credit and market risk.

In certain limited cases (e.g., in connection with a workout, restructuring and/or foreclosing proceedings involving one or more of our debt investments), the success of our investment strategy with respect thereto will depend, in part, on our ability to effectuate loan modifications and/or restructures. The activity of identifying and implementing any such restructuring programs entails a high degree of uncertainty. There can be no assurance that we will be able to successfully identify and implement such restructuring programs. Further, such modifications and/or restructuring may entail, among other things, a substantial reduction in the interest rate and a substantial write-down of the principal of such loan, debt securities or other interests. However, even if a restructuring were successfully accomplished, a risk exists that, upon maturity of such real estate loan, debt securities or other interests replacement “takeout” financing will not be available.

These financial difficulties may never be overcome and may cause borrowers to become subject to bankruptcy or other similar administrative and operating proceedings. There is a possibility that we may incur substantial or total losses on our investments and in certain circumstances, become subject to certain additional potential liabilities that may exceed the value of our original investment therein. For example, under certain circumstances, a lender who has inappropriately exercised control over the management and policies of a debtor may have its claims subordinated or disallowed or may be found liable for damages suffered by parties as a result of such actions. In any reorganization or liquidation proceeding relating to our investments, we may lose our entire investment, may be required to accept cash or securities with a value less than our original investment and/or may be required to accept payment over an extended period of time. In addition, under certain circumstances,

payments to us and distributions by us to the stockholders may be reclaimed if any such payment or distribution is later determined to have been a fraudulent conveyance, preferential payment or similar transaction under applicable bankruptcy and insolvency laws. Furthermore, bankruptcy laws and similar laws applicable to administrative proceedings may delay our ability to realize value on collateral for loan positions held by us or may adversely affect the priority of such loans through doctrines such as equitable subordination or may result in a restructure of the debt through principles such as the "cramdown" provisions of the bankruptcy laws.

Insurance on mortgage loans and real estate securities collateral may not cover all losses.

There are certain types of losses, generally of a catastrophic nature, such as earthquakes, floods, hurricanes, terrorism or acts of war, which may be uninsurable or not economically insurable. Inflation, changes in building codes and ordinances, environmental considerations and other factors, including terrorism, acts of war or damage as a result of climate change-related events, also might result in insurance proceeds insufficient to repair or replace a property if it is damaged or destroyed. Under these circumstances, the insurance proceeds received with respect to a property relating one of our investments might not be adequate to restore our economic position with respect to our investment. Any uninsured loss could result in the loss of cash flow from, and the asset value of, the affected property and the value of our investment related to such property.

Liability relating to environmental matters may impact the value of properties that we may acquire upon foreclosure of the properties underlying our investments.

To the extent we foreclose on properties with respect to which we have extended mortgage loans, we may be subject to environmental liabilities arising from such foreclosed properties. Under various United States federal, state and local laws, an owner or operator of real property may become liable for the costs of removal of certain hazardous substances released on its property. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such hazardous substances.

The presence of hazardous substances may adversely affect an owner's ability to sell real estate or borrow using real estate as collateral. To the extent that an owner of a property underlying one of our debt investments becomes liable for removal costs, the ability of the owner to make payments to us may be reduced, which in turn may adversely affect the value of the relevant mortgage asset held by us and our ability to make distributions to our stockholders.

If we foreclose on any properties underlying our investments, the presence of hazardous substances on a property may adversely affect our ability to sell the property and we may incur substantial remediation costs, thus harming our financial condition. The discovery of material environmental liabilities attached to such properties could have a material adverse effect on our results of operations and financial condition and our ability to make distributions to our stockholders.

The properties underlying our CRE loans may be subject to other unknown liabilities that could adversely affect the value of these properties, and as a result, our investments.

Properties underlying our CRE loans may be subject to other unknown or unquantifiable liabilities that may adversely affect the value of our investments. Such defects or deficiencies may include title defects, title disputes, liens or other encumbrances on the mortgaged properties. The discovery of such unknown defects, deficiencies and liabilities could affect the ability of our borrowers to make payments to us or could affect our ability to foreclose and sell the underlying properties, which could adversely affect our results of operations and financial condition. Further, we, our executive officers, directors and our Manager may, in the ordinary course of business, be named as defendants in litigation arising from our investments.

Construction loans involve an increased risk of loss.

We invest in and may continue to invest in construction loans. If we fail to fund our entire commitment on a construction loan or if a borrower otherwise fails to complete the construction of a project, there could be adverse consequences associated with the loan, including, but not limited to: a loss of the value of the property securing the loan, especially if the borrower is unable to raise funds to complete it from other sources; a borrower claim against us for failure to perform under the loan documents; increased costs to the borrower that the borrower is unable to pay; a bankruptcy filing by the borrower; and abandonment by the borrower of the collateral for the loan.

Our investments in construction loans require us to make estimates about the fair value of land improvements that may be challenged by the IRS.

We may invest in construction loans, the interest from which would be qualifying income for purposes of the gross income tests applicable to REITs, provided that the loan value of the real property securing the construction loan was equal to or greater than the highest outstanding principal amount of the construction loan during any taxable year. For purposes of construction loans, the loan value of the real property is generally the fair value of the land plus the reasonably estimated cost of the improvements or developments (other than personal property) that secure the loan and that are to be constructed from the proceeds of the loan. There can be no assurance that the IRS would not challenge our estimates of the loan values of the real property.

Our investments may be concentrated and could be subject to risk of default.

We are not required to observe specific diversification criteria, except as may be set forth in the investment guidelines adopted by our board of directors. Therefore, our investments in our target assets may at times be concentrated in certain property types that are subject to higher risk of foreclosure, or secured by properties concentrated in a limited number of geographic locations. To the extent that our investment portfolio is concentrated in any one region, sponsor or type of asset, economic and business downturns relating generally to such region, sponsor or type of asset may result in defaults on a number of our investments within a short time period, which may reduce our net income and the value of our common stock and accordingly reduce our ability to pay dividends to our stockholders.

We may need to foreclose on loans that are in default, which could result in losses.

We may find it necessary to foreclose on loans that are in default. Foreclosure processes are often lengthy and expensive. Results of foreclosure processes may be uncertain, as claims may be asserted by borrowers or by other lenders or investors in the borrowers that interfere with enforcement of our rights, such as claims that challenge the validity or enforceability of our loan or the priority or perfection of our mortgage or other security interests. Borrowers may resist foreclosure actions by asserting numerous claims, counterclaims and defenses against us, including, without limitation, lender liability claims and defenses, even when the assertions may have no merit, in an effort to prolong the foreclosure action and seek to force us into a modification of the loan or a buy-out of the loan for less than we are owed. At any time prior to or during the foreclosure proceedings, the borrower may file for bankruptcy, which would have the effect of staying the foreclosure actions and delaying the foreclosure processes and potentially result in reductions or discharges of borrower's debt. Foreclosure may create a negative public perception of the collateral property, resulting in a diminution of its value. Even if we are successful in foreclosing on a mortgage loan, the liquidation proceeds upon sale of the underlying real estate may not be sufficient to recover our investment. Any costs or delays involved in the foreclosure of the loan or a liquidation of the underlying property will reduce the net proceeds realized and, thus, increase the potential for loss.

RISKS RELATED TO OUR COMMON STOCK

The market price of our common stock may fluctuate significantly.

Our common stock is listed on the New York Stock Exchange ("NYSE") under the trading symbol "ACRE." Recently, the global capital and credit markets have experienced increased volatility. The market price and liquidity of the market for shares of our common stock may be significantly affected by numerous factors, some of which are beyond our control and may not be directly related to our operating performance.

Some of the factors that could negatively affect the market price of our common stock include:

- our actual or projected operating results, financial condition, cash flows and liquidity, or changes in business strategy or prospects;
- actual or perceived conflicts of interest with our Manager or Ares Management and individuals, including our executives;
- equity issuances by us, or share resales by our stockholders, or the perception that such issuances or resales may occur;
- loss of a major funding source;
- actual or anticipated accounting problems;
- publication of research reports about us or the real estate industry;

- changes in market valuations of similar companies;
- adverse market reaction to any increased indebtedness we incur in the future;
- additions to or departures of our Manager’s or Ares Management’s key personnel;
- speculation in the press or investment community;
- increases in market interest rates and widening of market credit spreads, which may lead investors to demand a higher distribution yield for our common stock and would result in increased interest expenses on our debt;
- failure to maintain our REIT qualification or exemption from the 1940 Act;
- price and volume fluctuations in the overall stock market from time to time;
- general market and economic conditions, and trends including inflationary concerns, the current state of the credit and capital markets;
- significant volatility in the market price and trading volume of securities of publicly traded REITs or other companies in our sector, which are not necessarily related to the operating performance of these companies;
- changes in law, regulatory policies or tax guidelines, or interpretations thereof, particularly with respect to REITs;
- changes in the value of our portfolio;
- any shortfall in revenue or net income or any increase in losses from levels expected by investors or securities analysts;
- operating performance of companies comparable to us;
- short-selling pressure with respect to shares of our common stock or REITs generally;
- uncertainty surrounding the continued strength of the United States economy; and
- concerns regarding volatility in the United States and global financial markets.

As noted above, market factors unrelated to our performance could also negatively impact the market price of our common stock. One of the factors that investors may consider in deciding whether to buy or sell our common stock is our distribution rate as a percentage of our stock price relative to market interest rates. If market interest rates increase, prospective investors may demand a higher distribution rate or seek alternative investments paying higher dividends or interest. As a result, interest rate fluctuations and conditions in the capital markets can affect the market value of our common stock. For instance, if interest rates rise, it is likely that the market price of our common stock will decrease as market rates on interest-bearing securities increase.

In the past, following periods of volatility in the market prices of a company’s securities, securities class action litigation has often been brought against that company. If our stock price fluctuates significantly, we may be the target of securities litigation in the future. Securities litigation could result in substantial costs and divert management’s attention and resources from our business.

Common stock eligible for future sale may have adverse effects on our share price.

As of December 31, 2021 and 2020, we had 47,144,058 and 33,442,332 shares of common stock outstanding, respectively.

We cannot predict the effect, if any, of future sales of our common stock, or the availability of shares for future sales, on the market price of our common stock. Sales of substantial amounts of common stock or the perception that such sales could occur may adversely affect the prevailing market price for our common stock.

We issue additional restricted common stock and other equity-based awards under our Amended and Restated 2012 Equity Incentive Plan. We may continue to issue additional shares in subsequent public offerings or private placements to make new investments or for other purposes. In 2021, we conducted two registered underwritten offerings where we sold a total of 13.5 million shares. We have also accessed liquidity through our “At the Market Stock Offering Program” which was established in November 2019 pursuant to which we may sell, from time to time, up to $100.0 million of shares of our common stock. During the year ended December 31, 2021, we sold 137,237 shares under the program. We are not required to offer any such shares to existing stockholders on a preemptive basis. Therefore, it may not be possible for existing stockholders to participate in such future share issuances, which may dilute the existing stockholders’ interests in us.

We have not established a minimum distribution payment level and we may be unable to generate sufficient cash flows from our operations to make distributions to our stockholders at any time in the future.

In order to qualify as a REIT, we are generally required to annually distribute to our stockholders at least 90% of our REIT taxable income (which does not equal net income, as calculated in accordance with GAAP), prior to the deduction for dividends paid and comply with various other requirements. We currently satisfy and intend to continue to satisfy the distribution requirement through quarterly distributions of all or substantially all of our REIT taxable income in such year, subject to certain adjustments. We have not established a minimum distribution payment level and our ability to pay distributions may be adversely affected by a number of factors, including the risk factors described in this Annual Report. All distributions will be made at the discretion of our board of directors and will depend on our earnings, our financial condition, debt covenants, maintenance of our REIT qualification and other factors as our board of directors may deem relevant from time to time. We believe that a change in any one of the following factors could adversely affect our results of operations and impair our ability to pay distributions to our stockholders

- our ability to make profitable investments;
- margin calls or other expenses that reduce our cash flow;
- defaults in our asset portfolio or decreases in the value of our portfolio; and
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates.

As a result, no assurance can be given that we will be able to make distributions to our stockholders at any time in the future or that the level of any distributions we do make to our stockholders will achieve a market yield or increase or even be maintained over time, any of which could materially and adversely affect us.

In addition, distributions that we make to our stockholders out of current or accumulated earnings and profits (as determined for United States federal income tax purposes), and not designated by us as capital gain dividends or qualified dividend income, generally will be taxable to our stockholders as ordinary income. However, a portion of our distributions may be designated by us as capital gain dividends and generally will be taxable to our stockholders as long-term capital gain to the extent that such distributions do not exceed our actual net capital gain for the taxable year, without regard to the period for which the stockholder that receives such distribution has held its stock. Distributions in excess of our current and accumulated earnings and profits, as determined for United States federal income tax purposes, and not designated by us as capital gain dividends or qualified dividend income, may constitute a return of capital. A return of capital is not taxable, but has the effect of reducing the basis of a stockholder’s investment in our common stock, but not below zero.

Our distributions may exceed our cash flow from our operations and our net income.

We make and intend to continue to make regular quarterly distributions to holders of our common stock. The regular quarterly cash distributions we pay are intended to be principally sourced by cash flow from operating activities. However, there can be no assurance that our net income or cash flow from operating activities will be sufficient to cover our future distributions, and we may use other sources of funds, such as from offering proceeds, borrowings and asset sales, to fund portions of our future distributions. Our distributions for the years ended December 31, 2021, 2020 and 2019 exceeded our cash flow from operating activities. Our distributions for the years ended December 31, 2020 and 2019 exceeded our net income.

Investing in our common stock may involve a high degree of risk.

The investments that we make in accordance with our investment objectives may result in a high amount of risk when compared to alternative investment options and volatility or loss of principal. Our investments may be highly speculative and aggressive, and therefore an investment in our common stock may not be suitable for someone with lower risk tolerance.

Future offerings of securities may adversely affect the market price of our common stock.

If we decide to issue securities that are senior to, convertible into or exchangeable for our common stock, such securities may have rights, preferences and privileges more favorable than those of our common stock and may result in dilution to holders of our common stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue such securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus holders of our common stock will bear the risk of our future offerings reducing the market price of our common stock and diluting the value of their stock holdings in us.

RISKS RELATED TO OUR ORGANIZATION AND STRUCTURE

The Maryland General Corporation Law, or the "MGCL," prohibits certain business combinations, which may make it more difficult for us to be acquired.

Under the MGCL, "business combinations" between a Maryland corporation and an "interested stockholder" or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as: (a) any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the then-outstanding voting stock of the corporation; or (b) an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then-outstanding stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which the person otherwise would have become an interested stockholder. However, in approving a transaction, the board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the board of directors.

After the expiration of the five-year period described above, any business combination between the Maryland corporation and an interested stockholder must generally be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of the then-outstanding shares of voting stock of the corporation; and

- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation, other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected, or held by an affiliate or associate of the interested stockholder.

These supermajority vote requirements do not apply if the corporation's common stockholders receive a minimum price, as defined under the MGCL, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares. The MGCL also permits various exemptions from these provisions, including business combinations that are exempted by the board of directors before the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has adopted a resolution exempting any business combination with Ares Investments or any of its affiliates. Consequently, the five-year prohibition and the supermajority vote requirements will not apply to business combinations between us and Ares Investments or any of its affiliates. As a result, Ares Investments or any of its affiliates may be able to enter into business combinations with us that may not be in the best interest of our stockholders, without compliance with the supermajority vote requirements and the other provisions of the statute. The business combination statute may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer.

Stockholders have limited control over changes in our policies and operations.

Our board of directors determines our major policies, including with regard to financing, growth, debt capitalization, REIT qualification and distributions. Our board of directors may amend or revise these and other policies without a vote of the stockholders. Under our charter and the MGCL, our stockholders generally have a right to vote only on the following matters:

- the election or removal of directors;
- the amendment of our charter, except that our board of directors may amend our charter without stockholder approval to:
- change our name;
- change the name or other designation or the par value of any class or series of stock and the aggregate par value of our stock;
- increase or decrease the aggregate number of shares of stock that we have the authority to issue;
- increase or decrease the number of shares of any class or series of stock that we have the authority to issue; and
- effect certain reverse stock splits;
- our dissolution; and
- our being a party to a merger, consolidation, conversion, sale or other disposition of all or substantially all of our assets or statutory share exchange.

All other matters are subject to the discretion of our board of directors.

Our authorized but unissued shares of common and preferred stock may prevent a change in control.

Our charter authorizes us to issue up to 450,000,000 shares of common stock and 50,000,000 shares of preferred stock without stockholder approval. In addition, our board of directors may, without stockholder approval, amend our charter from time to time to increase or decrease the aggregate number of shares of our stock or the number of shares of stock of any class or series that we have authority to issue and classify or reclassify any unissued shares of common or preferred stock into other classes or series of stock and set the preferences, rights and other terms of the classified or reclassified shares. As a result, our board of directors may establish a class or series of shares of common or preferred stock that could delay or prevent a merger, third party tender offer or similar transaction or a change in incumbent management that might involve a premium price for shares of our common stock or otherwise be in the best interest of our stockholders.

Maintenance of our exemption from registration under the 1940 Act imposes significant limits on our operations. Your investment return may be reduced if we are required to register as an investment company under the 1940 Act.

We conduct our operations so that neither we nor any of our consolidated subsidiaries are required to register as an investment company under the 1940 Act. In order to maintain our exemption from registration under the 1940 Act, the assets in our portfolio are subject to certain restrictions that meaningfully limit our operations.

In relevant part, Section 3(a)(1)(A) of the 1940 Act defines an investment company as any issuer that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Section 3(a)(1)(C) of the 1940 Act defines an investment company as any issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities and owns or proposes to acquire investment securities having a value exceeding 40% of the value of the issuer’s total assets (exclusive of United States Government securities and cash items) on an unconsolidated basis, or the “40% test.” The term “investment securities” generally includes all securities except United States Government securities and securities of majority-owned subsidiaries that are not themselves investment companies and are not relying on the exemption from the definition of “investment company” under Sections 3(c)(1) or 3(c)(7) of the 1940 Act.

We are organized as a holding company that conducts its businesses primarily through wholly-owned and other majority-owned subsidiaries. We conduct our operations in a manner designed so that we do not come within the definition of

an investment company because less than 40% of the value of our adjusted total assets on an unconsolidated basis consist of "investment securities." As such, the securities issued by our wholly-owned or other majority-owned subsidiaries that are exempted from the definition of "investment company" based on Section 3(c)(1) or 3(c)(7) of the 1940 Act, together with any other investment securities we may own, may not have a value in excess of 40% of the value of our adjusted total assets on an unconsolidated basis. This requirement limits the types of businesses in which we may engage through such subsidiaries. In addition, the assets we and our consolidated subsidiaries may originate or acquire are limited by the provisions of the 1940 Act and the rules and regulations promulgated under the 1940 Act, which may adversely affect our business. We monitor our holdings to ensure continuing and ongoing compliance with this test. In addition, we believe we are not considered an investment company under Section 3(a)(1)(A) of the 1940 Act because we do not engage primarily or hold ourselves out as being engaged primarily in the business of investing, reinvesting or trading in securities. Rather, through our wholly-owned and other majority-owned subsidiaries, we are primarily engaged in the non-investment company businesses of these subsidiaries.

We determine whether an entity is one of our majority-owned subsidiaries. The 1940 Act defines a majority-owned subsidiary of a person as a company 50% or more of the outstanding voting securities of which are owned by such person, or by another company that is a majority-owned subsidiary of such person. The 1940 Act further defines voting securities as any security presently entitling the owner or holder thereof to vote for the election of directors of a company. We treat entities in which we own at least a majority of the outstanding voting securities as majority-owned subsidiaries for purposes of the 40% test. We have not requested the SEC to approve our treatment of any entity as a majority-owned subsidiary and the SEC has not done so. If the SEC were to disagree with our treatment of one or more subsidiary entities as majority-owned subsidiaries, we would need to adjust our strategy and our assets in order to continue to pass the 40% test. Any such adjustment in our strategy could have a material adverse effect on us.

In addition, we and our consolidated subsidiaries may rely upon the exemption from registration as an investment company pursuant to Section 3(c)(5)(C) of the 1940 Act, which is available for entities "primarily engaged" in the business of "purchasing or otherwise acquiring mortgages and other liens on and interests in real estate." As reflected in no-action letters, the SEC staff's position on Section 3(c)(5)(C) generally requires that at least 55% of an entity's assets comprise qualifying real estate assets and that at least 80% of its assets must comprise qualifying real estate assets and real estate-related assets under the 1940 Act. Specifically, we expect each of our consolidated subsidiaries relying on Section 3(c)(5)(C) to invest at least 55% of its assets in mortgage loans, certain mezzanine loans and B-Notes and other interests in real estate that constitute qualifying real estate assets in accordance with SEC staff guidance, and approximately an additional 25% of its assets in other types of mortgages, securities of REITs and other real estate-related assets such as debt and equity securities of companies primarily engaged in real estate businesses and securities issued by pass-through entities of which substantially all of the assets consist of qualifying real estate assets and/or real estate-related assets.

We expect each of our consolidated subsidiaries relying on Section 3(c)(5)(C) to rely on guidance published by the SEC staff or on our analyses of guidance published with respect to other types of assets to determine which assets are qualifying real estate assets and real estate-related assets. However, the SEC's guidance was issued in accordance with factual situations that may be substantially different from the factual situations we may encounter. No assurance can be given that the SEC will concur with how we classify the assets of our consolidated subsidiaries.

The SEC staff, according to published guidance, takes the view that certain mezzanine loans and B-Notes are qualifying real estate assets. Thus, we intend to treat certain mezzanine loans and B-Notes as qualifying real estate assets. The SEC has not published guidance with respect to the treatment of some of our other current and target assets, including commercial mortgage-backed securities, for purposes of the Section 3(c)(5)(C) exemption. For assets for which the SEC has not published guidance, we intend to rely on our own analysis. For example, unless we receive further guidance from the SEC or its staff with respect to CMBS or CLOs, we intend to treat CMBS or CLOs in which we hold 100% of the "controlling class" of securities as qualifying real estate assets, and our other holdings in CMBS or CLOs as real estate-related assets. We also intend to treat debt and equity securities of companies primarily engaged in real estate businesses as real estate-related assets. The SEC may in the future take a view different than or contrary to our analysis with respect to the types of assets we have determined to be qualifying real estate assets or real estate-related assets. To the extent that the SEC staff publishes new or different guidance with respect to these matters, we may be required to adjust our strategy accordingly. If we are required to re-classify our assets, we may no longer be in compliance with the exclusion from the definition of an "investment company" provided by Section 3(c)(5)(C) of the 1940 Act.

Certain of our consolidated subsidiaries may rely on the exemption provided by Section 3(c)(6) to the extent that they hold mortgage assets through majority-owned subsidiaries that rely on the exemption provided by Section 3(c)(5)(C). The SEC staff has issued little interpretive guidance with respect to Section 3(c)(6) and any guidance published by the SEC staff could require us to adjust our strategy accordingly.

There can be no assurance that the laws and regulations governing the 1940 Act status of REITs, including the SEC or its staff providing more specific or different guidance regarding these exemptions, will not change in a manner that adversely affects our operations.

Although we monitor our portfolio periodically and prior to each investment origination or acquisition, there can be no assurance that we will be able to maintain our exemptive status. If the value of securities issued by our consolidated subsidiaries that are exempted from the definition of “investment company” by Sections 3(c)(1) or 3(c)(7) of the 1940 Act, together with any other investment securities we own, exceeds 40% of our adjusted total assets on an unconsolidated basis, or if one or more of such subsidiaries fail to maintain an exemption from registration under the 1940 Act, we could, among other things, be required to (a) substantially change the manner in which we conduct our operations to avoid being required to register as an investment company, (b) effect sales of our assets in a manner that, or at a time when, we would not otherwise choose to do so, or (c) register as an investment company, any of which could negatively affect the value of our common stock, the sustainability of our business model, and our ability to make distributions which could have an adverse effect on our business and the market price for our shares of common stock.

To maintain our exemptive status, we may be unable to sell assets we would otherwise want to sell and may need to sell assets we would otherwise wish to retain. In addition, we may have to acquire additional assets that we might not otherwise have acquired or may have to forego opportunities to acquire assets that we would otherwise want to acquire and would be important to our investment strategy. If we were to lose our exemptive status and were required to register as an investment company but failed to do so, we would be prohibited from engaging in our business, and criminal and civil actions could be brought against us. In addition, our contracts would be unenforceable unless a court required enforcement, and a court could appoint a receiver to take control of us and liquidate our business. Alternatively, if we were to register as an investment company under the 1940 Act, we would become subject to substantial regulation with respect to our capital structure (including our ability to use borrowings), management, operations, transactions with affiliated persons (as defined in the 1940 Act), and portfolio composition, including disclosure requirements and restrictions with respect to diversification and industry concentration, and other matters. Compliance with the 1940 Act would, accordingly, limit our ability to make certain investments and require us to significantly restructure our business model. This could have a material adverse effect on our net asset value, the market price for our shares of common stock and our ability to pay distributions to our stockholders.

Rapid and steep declines in the values of our real estate-related investments may make it more difficult for us to maintain our qualification as a REIT or exemption from the 1940 Act.

If the market value or income potential of real estate-related investments declines as a result of increased interest rates or other factors, we may need to increase our real estate investments and income and/or liquidate our non-qualifying assets in order to maintain our REIT qualification or exemption from the 1940 Act. If the decline in real estate asset values and/or income occurs quickly, this may be especially difficult to accomplish. This difficulty may be exacerbated by the illiquid nature of any non-qualifying assets that we may own. We may have to make investment decisions that we otherwise would not make absent the REIT and 1940 Act considerations.

Our rights and the rights of our stockholders to recover on claims against our directors and officers are limited, which could reduce our stockholders and our recovery against them if they negligently cause us to incur losses.

The MGCL provides that a director has no liability in such capacity if he performs his duties in good faith, in a manner he reasonably believes to be in our best interests and with the care that an ordinarily prudent person in a like position would use under similar circumstances. A director who performs his or her duties in accordance with the foregoing standards should not be liable to us or any other person for failure to discharge his or her obligations as a director.

In addition, our charter provides that our directors and officers will not be liable to us or our stockholders for monetary damages unless the director or officer actually received an improper benefit or profit in money, property or services, or is adjudged to be liable to us or our stockholders based on a finding that his or her action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding. Our bylaws require us, to the maximum extent permitted by Maryland law, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to any individual who is a present or former director or officer and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity or any individual who, while a director or officer and at our request, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, REIT, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity. With the approval of our board of directors, we may provide

such indemnification and advance for expenses to any individual who served a predecessor of ours in any of the capacities described above and any employee or agent of ours or a predecessor of ours, including our Manager and its affiliates.

We also are permitted to purchase and maintain insurance or provide similar protection on behalf of any directors, officers, employees and agents, including our Manager and its affiliates, against any liability asserted which was incurred in any such capacity with us or arising out of such status. This may result in us having to expend significant funds, which will reduce the available cash for distribution to our stockholders.

Our charter contains provisions that make removal of our directors difficult, which could make it difficult for our stockholders to effect changes to our management.

Our charter provides that a director may only be removed for cause upon the affirmative vote of stockholders entitled to cast two-thirds of the votes entitled to be cast generally in the election of directors. Vacancies may be filled only by a majority of the remaining directors in office, even if less than a quorum, and any director elected to fill a vacancy will hold office for the remainder of the full term of the class of directors in which the vacancy occurred and until a successor is elected and qualifies. These requirements make it more difficult to change our management by removing and replacing directors and may prevent a change in control that is in the best interests of our stockholders. Pursuant to our charter, our board of directors is divided into three classes of directors serving staggered three year terms. The staggered terms of our directors may reduce the possibility of a tender offer or an attempt at a change in control, even though a tender offer or change in control might be in the best interest of our stockholders.

Ownership limitations may restrict change of control or business combination opportunities in which our stockholders might receive a premium for their shares.

In order for us to maintain our qualification as a REIT, commencing with our taxable year ended December 31, 2012, no more than 50% in value of our outstanding capital stock may be owned, directly or indirectly, by five or fewer individuals during the last half of each taxable year after 2012. “Individuals” for this purpose include natural persons, private foundations, some employee benefit plans and trusts, and some charitable trusts. To preserve our REIT qualification, among other purposes, our charter generally prohibits any person (except Ares Investments which is subject to a 22% excepted holder limit) from directly or indirectly owning more than 9.8% in value of the outstanding shares of our capital stock or more than 9.8% in value or in number of shares, whichever is more restrictive, of the outstanding shares of any class or series of our stock. This ownership limitation could have the effect of discouraging a takeover or other transaction in which holders of our common stock might receive a premium for their shares over the then-prevailing market price or which holders might believe to be otherwise in their best interests.

RISKS RELATED TO OUR RELATIONSHIP WITH OUR MANAGER AND ITS AFFILIATES

Our future success depends on our Manager, its key personnel and their access to the investment professionals of Ares Management. We may not find a suitable replacement for our Manager if our Management Agreement is terminated or if such key personnel or investment professionals leave the employment of our Manager or Ares Management or otherwise become unavailable to us.

We rely on the resources of our Manager to manage our day-to-day operations, as we do not employ any personnel. We rely completely on our Manager to provide us with investment advisory services.

Our executive officers also serve as officers of our Manager. Our Manager has significant discretion as to the implementation of our investment and operating policies and strategies. Accordingly, we believe that our success depends to a significant extent upon the efforts, experience, diligence, skill and network of business contacts of the officers and key personnel of our Manager. The officers and key personnel of our Manager evaluate, negotiate, close and monitor our investments; therefore, our success depends on their continued service. The departure of any of the officers or key personnel of our Manager could have a material adverse effect on our business.

Our Manager is not obligated to dedicate any specific personnel exclusively to us. None of our officers are obligated to dedicate any specific portion of their time to our business. Each of them has significant responsibilities for other investment vehicles managed by affiliates of Ares Management. As a result, these individuals may not always be able to devote sufficient time to the management of our business. Further, when there are turbulent conditions in the real estate markets or distress in the credit markets, the attention of our Manager’s personnel and our executive officers and the resources of Ares Management will also be required by other investment vehicles managed by affiliates of Ares Management.

In addition, we offer no assurance that our Manager will remain our investment manager or that we will continue to have access to our Manager's officers and key personnel. The current term of our Management Agreement expires on May 1, 2022, with automatic one-year term renewals thereafter. However, our Manager may decline to renew the Management Agreement with 180 days' written notice prior to the expiration of the renewal term. If the Management Agreement is terminated and no suitable replacement is found to manage us, we may not be able to execute our investment strategy.

We also depend on access to, and the diligence, skill and network of business contacts of the investment professionals of other groups within Ares Management and the information and deal flow generated by Ares Management's investment professionals in the course of their investment and portfolio management activities. The departure of any of these individuals, or of a significant number of the investment professionals or partners of Ares Management, could have a material adverse effect on our business, financial condition or results of operations. We cannot assure you that we will continue to have access to Ares Management's investment professionals or its information and deal flow.

Our growth depends on the ability of our Manager to make investments on favorable terms that satisfy our investment strategy and otherwise generate attractive risk-adjusted returns initially and consistently from time to time.

Our ability to achieve our investment objectives depends on our ability to grow, which depends, in turn, on the management and investment teams of our Manager and their ability to identify and to make investments on favorable terms in our target investments as well as on our access to financing on acceptable terms. The demands on the time of the professional staff of our Manager will increase as our portfolio grows, and we cannot assure you that our Manager will be able to hire, train, supervise, manage and retain new officers and employees to manage future growth effectively, and any such failure could have a material adverse effect on our business.

There are various conflicts of interest in our relationship with our Manager and Ares Management that could result in decisions that are not in the best interests of our stockholders.

We are subject to conflicts of interest arising out of our relationship with Ares Management, including our Manager and its affiliates. We are managed by our Manager, an Ares Management affiliate, and our executive officers are employees of our Manager or one or more of its affiliates. There is no guarantee that the policies and procedures adopted by us, the terms and conditions of the management agreement or the policies and procedures adopted by our Manager, Ares Management and their affiliates, will enable us to identify, adequately address or mitigate these conflicts of interest.

Some examples of conflicts of interest that may arise by virtue of our relationship with our Manager and Ares Management include:

Ares Management advisory activities. While our Manager and Ares Management have agreed that for so long as our Manager is managing us, neither Ares Management nor any of its affiliates will sponsor or manage any other United States publicly traded REIT that invests primarily in the same asset classes as us, affiliates of our Manager may manage other investment vehicles (including non-traded or perpetual life REITs) that have investment objectives that compete or overlap with, and may from time to time invest in, our target asset classes. This may apply to existing investment vehicles or investment vehicles that may be organized, or that affiliates of our Manager may acquire the management in the future. Consequently, we, on the one hand, and these other investment vehicles, on the other hand, may from time to time pursue the same or similar investment opportunities. To the extent such existing vehicles or other future Ares managed vehicles seek to acquire the same target assets as our Company, the scope of opportunities otherwise available to us may be adversely affected and/or reduced. Our Manager, Ares Management or their affiliates may also give advice to Ares managed investment vehicles that may differ from the advice given to us even though their investment objectives may be the same or similar to ours.

Allocation of investments. Ares Management and our Manager endeavor to allocate investment opportunities in a fair and equitable manner, subject to Ares Management's allocation policy. Ares Management's allocation policy, which may be amended without our consent, is intended to enable us to share equitably with any other investment vehicles that are managed by Ares Management. In general, investment opportunities are allocated taking into consideration various factors, including, among others, the relevant investment vehicles' available capital, their investment objectives or strategies, their risk profiles and their existing or prior positions in an issuer/security, their potential conflicts of interest, the nature of the opportunity and market conditions, as well as the rotation of investment opportunities. Nevertheless, it is possible that we may not be given the opportunity to participate in certain investments made by investment vehicles managed by affiliates of our Manager. In addition, there may be conflicts in the allocation of investment opportunities among us and the investment vehicles managed by affiliates of our Manager.

Co-investments. Other Ares managed investment vehicles may co-invest with us or hold positions in an investment, or provide debt with respect to an underlying property, where we have also invested, including by means of splitting investments, participating in investments or other means of syndication of investments. Such investments may raise potential conflicts of interest between us and such other Ares managed investment vehicles. To the extent such existing vehicles or other Ares managed vehicles that may be organized in the future seek to acquire the same target assets as us, subject to Ares Management's allocation policy described above, the scope of opportunities otherwise available to us may be adversely affected and/or reduced. In such circumstances, the size of the investment opportunity otherwise available to us may be less than it would otherwise have been, and we may participate in such opportunities on different and potentially less favorable economic terms than such other parties if our Manager deems such participation as being otherwise in our best interests. Furthermore, when such other Ares managed investment vehicles have interests or requirements that do not align with our interests, including differing liquidity needs or desired investment horizons, conflicts may arise in the manner in which any voting or control rights are exercised with respect to the relevant investment, potentially resulting in an adverse impact on us. If we participate in a co-investment with an Ares managed investment vehicle and such vehicle fails to fund a future advance on a loan, we may be required to, or we may elect to, cover such advance and invest additional funds. In addition, if we and such other Ares managed investment vehicles invest in different classes or types of debt or investments relating to the same underlying property or properties, actions may be taken by such other Ares managed investment vehicles that are adverse to our interests, including, but not limited to, during a work-out, restructuring or insolvency proceeding or similar matter occurring with respect to such investment.

Investments in which Ares managed investment vehicles hold different investments. We may invest in, acquire, sell assets to or provide financing to investment vehicles managed by Ares Management or its affiliates and their portfolio companies or purchase assets from, sell assets to, or arrange financing from any such investment vehicles and their portfolio companies. Any such transactions will require approval by a majority of our independent directors. There can be no assurance that any procedural protections will be sufficient to ensure that these transactions will be made on terms that will be at least as favorable to us as those that would have been obtained in an arm's-length transaction.

Ares warehouse line. Ares Management maintains a $200 million real estate debt warehouse investment vehicle that holds Ares Management originated real estate loans, which are made available to purchase by other investment vehicles, including us and other Ares Management managed investment vehicles. Although our Manager will approve the purchase of such loans only on terms, including the consideration to be paid, that are determined by our Manager in good faith to be appropriate for us, it is possible that the interests of Ares Management could be in conflict with ours and the interests of our stockholders. Our opportunity to purchase loans from such vehicle may be on different and potentially less favorable economic terms than other Ares managed vehicles if our Manager deems such purchase as being otherwise in our best interests.

Fees and expenses. We will be responsible for our proportionate share of certain fees and expenses, including due diligence costs, as determined by our Manager and Ares Management, including legal, accounting and financial advisor fees and related costs, incurred in connection with evaluating and consummating investment opportunities, regardless of whether such transactions are ultimately consummated by the parties thereto.

The ability of our Manager and its officers and employees to engage in other business activities may reduce the time our Manager spends managing our business and may result in certain conflicts of interest.

Certain of our officers and directors, and the officers and other personnel of our Manager, also serve or may serve as officers, directors or partners of Ares Management, as well as Ares Management sponsored investment vehicles, including new affiliated potential pooled investment vehicles or managed accounts not yet established, whether managed or sponsored by Ares Management's affiliates or our Manager. Accordingly, the ability of our Manager and its officers and employees to engage in other business activities may reduce the time our Manager spends managing our business. These activities could be viewed as creating a conflict of interest insofar as the time and effort of the professional staff of our Manager and its officers and employees will not be devoted exclusively to our business; instead it will be allocated between our business and the management of these other investment vehicles.

In the course of our investing activities, we will pay base management fees to our Manager and will reimburse our Manager for certain expenses it incurs. As a result, investors in our common stock will invest on a "gross" basis and receive distributions on a "net" basis after expenses, resulting in, among other things, a lower rate of return than one might achieve through direct investments. As a result of this arrangement, our Manager's interests may be less aligned with our interests.

Our Management Agreement with our Manager was not negotiated on an arm's-length basis and may not be as favorable to us as if it had been negotiated with an unaffiliated third party, and the manner of determining the management fees may not provide sufficient incentive to our Manager to maximize risk-adjusted returns for our portfolio since it is based on our stockholders' equity per annum and not on our performance.

We rely completely on our Manager to provide us with investment advisory services. Our executive officers also serve as officers of our Manager. Our Management Agreement was negotiated between related parties and its terms, including fees payable, may not be as favorable to us as if it had been negotiated with an unaffiliated third party.

We will pay our Manager substantial base management fees regardless of the performance of our portfolio. Pursuant to the terms of the Management Agreement, our Manager receives a base management fee that is calculated as 1.5% of our stockholders' equity per annum, which is calculated and payable quarterly in arrears in cash, subject to certain adjustments. Our Manager's entitlement to a base management fee, which is not based upon performance metrics or goals, might reduce its incentive to devote its time and effort to seeking investments that provide attractive risk-adjusted returns for our portfolio. Further, the management fee structure gives our Manager the incentive to maximize stockholders' equity raised by the issuance of new equity securities or the retention of existing equity, regardless of the effect of these actions on existing stockholders. In other words, the management fee structure will reward our Manager primarily based on the size of our equity raised and not on our financial returns to stockholders. This in turn could hurt both our ability to make distributions to our stockholders and the market price of our common stock.

The current term of our Management Agreement expires on May 1, 2022. Thereafter, the Management Agreement automatically renews for one-year terms unless terminated upon 180 days' written notice prior to the expiration of the then current term in accordance with its terms. If the Management Agreement is terminated and no suitable replacement is found to manage us, we may not be able to continue to execute our investment strategy.

Terminating our Management Agreement for unsatisfactory performance of the Manager or electing not to renew the Management Agreement may be difficult and terminating the agreement in certain circumstances requires payment of a substantial termination fee.

Terminating our Management Agreement without cause is difficult and costly. Our independent directors will review our Manager's performance and the management fees annually and, upon 180 days' written notice prior to the expiration of any renewal term, the Management Agreement may be terminated upon the affirmative vote of at least two-thirds of our independent directors based upon: (a) our Manager's unsatisfactory performance that is materially detrimental to us; or (b) a determination that the management fees payable to our Manager are not fair, subject to our Manager's right to prevent termination based on unfair fees by accepting a reduction of management fees agreed to by at least two-thirds of our independent directors. Additionally, upon any such termination, the Management Agreement provides that we will pay our Manager a termination fee equal to three times the sum of the average annual base management fee and incentive fee received by our Manager during the 24-month period before such termination, calculated as of the end of the most recently completed fiscal quarter. This provision increases the cost to us of terminating the Management Agreement and adversely affects our ability to terminate our Manager without cause.

The incentive fee payable to our Manager under the Management Agreement may cause our Manager to select investments in riskier assets to increase its incentive compensation.

Our Manager is entitled to receive incentive compensation based upon our achievement of targeted levels of Core Earnings. "Core Earnings" is defined in our Management Agreement as net income (loss) computed in accordance with GAAP, excluding non-cash equity compensation expense, the incentive fee, depreciation and amortization (to the extent that any of our target investments are structured as debt and we foreclose on any properties underlying such debt), any unrealized gains, losses or other non-cash items recorded in net income (loss) for the period, regardless of whether such items are included in other comprehensive income or loss, or in net income (loss), and one-time events pursuant to changes in GAAP and certain non-cash charges after discussions between our Manager and our independent directors and after approval by a majority of our independent directors. For the years ended December 31, 2021, 2020 and 2019, $2.8 million, $0.8 million and $1.1 million of incentive fees were incurred, respectively. In evaluating investments and other management strategies, the opportunity to earn incentive fees based on Core Earnings may lead our Manager to place undue emphasis on the maximization of Core Earnings at the expense of other criteria, such as preservation of capital, in order to achieve higher incentive compensation. Investments with higher yield potential are generally riskier or more speculative. This could result in increased risk to the value of our investment portfolio.

Our Manager manages our portfolio in accordance with very broad investment guidelines and our board of directors does not approve each investment and financing decision made by our Manager, which may result in us making riskier investments than those currently comprising our investment portfolio.

While our directors periodically review our investment portfolio, they do not review all of our proposed investments. In addition, in conducting periodic reviews, our directors may rely primarily on information provided to them by our Manager. Our investment guidelines may be changed from time to time. Furthermore, our Manager may use complex strategies and transactions entered into by our Manager that may be difficult or impossible to unwind by the time they are reviewed by our directors. Our Manager has great latitude in determining the types of assets that are proper investments for us, which could result in investment returns that are substantially below expectations or that result in losses, which would materially and adversely affect our business operations and results. In addition, our Manager is not subject to any limits or proportions with respect to the mix of target investments that we originate or acquire other than as necessary to maintain our qualification as a REIT and our exemption from registration under the 1940 Act. Decisions made and investments entered into by our Manager may not fully reflect your best interests.

Our Manager may change its investment process, or elect not to follow it, without stockholder consent at any time, which may adversely affect our investments.

Our Manager may change its investment process without stockholder consent at any time. In addition, there can be no assurance that our Manager will follow its investment process in relation to the identification and underwriting of prospective investments. Changes in our Manager’s investment process may result in inferior, among other things, due diligence and underwriting standards, which may adversely affect the performance of our portfolio.

We do not have a policy that expressly prohibits our directors, officers, stockholders or affiliates from engaging for their own account in business activities of the types conducted by us.

We do not have a policy that expressly prohibits our directors, officers, stockholders or affiliates from engaging for their own account in business activities of the types conducted by us. However, our code of business conduct and ethics contains a conflicts of interest policy that prohibits our directors and officers, as well as employees of our Manager from engaging in any transaction that involves an actual conflict of interest with us without the approval of the audit committee of our board of directors. In addition, our Management Agreement does not prevent our Manager and its affiliates from engaging in additional management or investment opportunities, some of which could compete with us, and our code of business conduct and ethics acknowledges that such activities shall not be deemed a conflict of interest.

Our Manager is subject to extensive regulation as an investment adviser, which could adversely affect its ability to manage our business.

Our Manager is subject to regulation as an investment adviser by various regulatory authorities that are charged with protecting the interests of its clients, including us. Instances of criminal activity and fraud by participants in the investment management industry and disclosures of trading and other abuses by participants in the financial services industry have led the United States Government and regulators to increase the rules and regulations governing, and oversight of, the United States financial system. This activity resulted in changes to the laws and regulations governing the investment management industry and more aggressive enforcement of the existing laws and regulations. Our Manager could be subject to civil liability, criminal liability, or sanction, including revocation of its registration as an investment adviser, revocation of the licenses of its employees, censures, fines, or temporary suspension or permanent bar from conducting business, if it is found to have violated any of these laws or regulations. Any such liability or sanction could adversely affect our Manager’s ability to manage our business. Our Manager must continually address conflicts between its interests and those of its clients, including us. In addition, the SEC and other regulators have increased their scrutiny of potential and actual conflicts of interest. Our Manager has procedures and controls that are reasonably designed to address these issues. However, appropriately dealing with conflicts of interest is complex and difficult and if our Manager fails, or appears to fail, to deal appropriately with conflicts of interest, it could face litigation or regulatory proceedings or penalties, any of which could adversely affect its ability to manage our business.

We may not replicate Ares Management’s historical performance.

We cannot assure you that we will replicate Ares Management’s historical performance, and we caution you that our investment returns could be substantially lower than the returns achieved by other entities managed by Ares Management or its affiliates.

In addition to other analytical tools, our Manager may utilize financial models to evaluate commercial mortgage loans and CRE-related debt instruments, the accuracy and effectiveness of which cannot be guaranteed.

In addition to other analytical tools, our Manager may utilize financial models to evaluate commercial mortgage loans and CRE-related debt instruments, the accuracy and effectiveness of which cannot be guaranteed. In all cases, financial models are only estimates of future results which are based upon assumptions made at the time that the projections are developed. There can be no assurance that our Manager's projected results will be attained and actual results may vary significantly from the projections. General economic and industry-specific conditions, which are not predictable, can have an adverse impact on the reliability of projections.

We do not own the Ares name, but we may use the name pursuant to a license agreement with Ares Management. Use of the name by other parties or the termination of our license agreement may harm our business.

We have entered into a license agreement with Ares Management pursuant to which it has granted us a non-exclusive, royalty-free license to use the name "Ares." Under this agreement, we have a right to use this name for so long as ACREM serves as our Manager pursuant to the Management Agreement. Ares Management retains the right to continue using the "Ares" name. We cannot preclude Ares Management from licensing or transferring the ownership of the "Ares" name to third parties, some of whom may compete with us. Consequently, we would be unable to prevent any damage to goodwill that may occur as a result of the activities of Ares Management or others. Furthermore, in the event that the license agreement is terminated, we will be required to change our name and cease using the name. Any of these events could disrupt our recognition in the market place, damage any goodwill we may have generated and otherwise harm our business. The license agreement terminates upon expiration of the Management Agreement and may also be terminated by either party without penalty upon 180 days' written notice to the other party.

Our Manager's and Ares Management's liability is limited under the Management Agreement, and we have agreed to indemnify our Manager against certain liabilities. As a result, we could experience poor performance or losses for which our Manager would not be liable.

Pursuant to the Management Agreement, our Manager does not assume any responsibility other than to render the services called for thereunder and will not be responsible for any action of our board of directors in following or declining to follow its advice or recommendations. Under the terms of the Management Agreement, our Manager, its officers, members, managers, directors, personnel, any person controlling or controlled by our Manager, including Ares Management, and any person providing services to our Manager will not be liable to us, any subsidiary of ours, our stockholders or partners or any subsidiary's stockholders or partners for acts or omissions performed in accordance with and pursuant to the Management Agreement, except by reason of acts constituting bad faith, willful misconduct, gross negligence, or reckless disregard of their duties under the Management Agreement. In addition, we have agreed to indemnify our Manager, its officers, stockholders, members, managers, directors, personnel, any person controlling or controlled by our Manager and any person providing services to our Manager with respect to all expenses, losses, damages, liabilities, demands, charges and claims arising from acts of our Manager not constituting bad faith, willful misconduct, gross negligence, or reckless disregard of duties, performed in good faith in accordance with and pursuant to the Management Agreement.

UNITED STATES FEDERAL INCOME TAX RISKS

Our failure to remain qualified as a REIT would subject us to United States federal income tax and potentially state and local tax, and would adversely affect our operations and the market price of our common stock.

We have elected to be taxed as a REIT commencing with our taxable year ended December 31, 2012. However, we may terminate our REIT election if our board of directors determines that not qualifying as a REIT is in the best interests of our stockholders. We may also inadvertently terminate our REIT election, as our qualification as a REIT depends upon our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis. We have structured and intend to continue structuring our activities in a manner designed to satisfy all the requirements for qualification as a REIT and believe that we have qualified as a REIT since the year of our initial election. The REIT qualification requirements are extremely complex and interpretation of the United States federal income tax laws governing qualification as a REIT is limited. Accordingly, we cannot be certain that we will be successful in operating so we can remain qualified as a REIT. Our ability to satisfy the asset tests depends on our analysis of the characterization and fair market values of our assets, some of which are not susceptible to a precise determination, and for which we will not obtain independent appraisals. Our compliance with the REIT income or quarterly asset requirements also depends on our ability to successfully manage the composition of our income and assets on an ongoing basis. Accordingly, if certain of our operations were to be re-characterized by the IRS such re-characterization could jeopardize our ability to satisfy all the requirements for qualification as

a REIT. Furthermore, future legislative, judicial or administrative changes to the United States federal income tax laws could be applied retroactively, which could result in our disqualification as a REIT.

If we fail to maintain our qualification as a REIT for any taxable year, and we do not qualify for certain statutory relief provisions, we will be subject to United States federal income tax on our taxable income at the corporate tax rate. In addition, we would generally be disqualified from treatment as a REIT for the four taxable years following the year of losing our REIT qualification. Losing our REIT qualification would reduce our net earnings available for investment or distribution to stockholders because of the additional tax liability. In addition, distributions to stockholders would no longer qualify for the dividends paid deduction, and we would no longer be required to make distributions. If this occurs, we might be required to borrow funds or liquidate some investments in order to pay the applicable tax.

Furthermore, any REIT in which we invest directly or indirectly, including the REIT through which we own our interest in the CLO Securitizations, ACRE 2017-FL3 Holder REIT LLC ("FL3 REIT"), is independently subject to, and must comply with, the same REIT requirements that we must satisfy in order to qualify as a REIT, together with all other rules applicable to REITs. If the subsidiary REIT fails to qualify as a REIT and certain statutory relief provisions do not apply, then (a) the subsidiary REIT would become subject to United States federal income tax, (b) the subsidiary REIT will be disqualified from treatment as a REIT for the four taxable years following the year during which qualification was lost, (c) our investment in the subsidiary REIT could cease to be a qualifying asset for purposes of the asset tests applicable to REITs and any dividend income or gains derived by us from such subsidiary REIT may cease to be treated as income that qualifies for purposes of the 75% gross income test, and (d) we may fail certain of the asset or income tests applicable to REITs, in which event we will fail to qualify as a REIT unless we are able to avail ourselves of certain statutory relief provisions. Failure to meet the senior note overcollateralization tests for our CLO Securitizations and any resulting failure to receive payments from the CLO Securitizations may be detrimental in the FL3 REIT's ability to qualify as a REIT.

REITs, in certain circumstances, may incur tax liabilities that would reduce the cash available for distribution to our stockholders.

Even if we maintain our status as a REIT, we may be subject to United States federal income taxes and related state and local taxes. For example, net income from the sale of properties that are considered inventory or property held primarily for sale to customers by a REIT in the ordinary course of its trade or business (a "prohibited transaction" under the Code) will be subject to a 100% tax. Also, if we were to fail an income test (and did not lose our REIT status because such failure was due to reasonable cause and not willful neglect) we would be subject to tax on the portion of our income that does not meet the income test requirements. We also may decide to retain net capital gains we earn from the sale or other disposition of our property and pay United States federal income tax directly on such income. In that event, our stockholders would be treated as if they earned that income and paid the tax on it directly. However, stockholders that are tax-exempt, such as charities or qualified pension plans, would have no benefit from their deemed payment of such tax liability unless they file United States federal income tax returns and thereon seek a refund of such tax. We also will be subject to corporate tax on any undistributed REIT taxable income. We also may be subject to state and local taxes on our income or property, including franchise, payroll, mortgage recording and transfer taxes, either directly or at the level of the other companies through which we indirectly own our assets, such as our TRSs, which are subject to full United States federal, state, and local corporate-level income taxes. Finally, we may incur an excise tax applicable to REITs if we fail to make sufficient distributions to our stockholders during the course of a taxable year, along with any distributions declared in the fourth quarter of a year and paid in January of the following year. Any taxes we pay directly or indirectly will reduce our cash available for distribution to stockholders.

To qualify as a REIT, we must meet annual distribution requirements, which may force us to forgo otherwise attractive opportunities or borrow funds during unfavorable market conditions. This could delay or hinder our ability to meet our investment objectives and reduce your overall return.

In order to maintain our status as a REIT, we must annually distribute to our stockholders at least 90% of our REIT taxable income (which does not equal net income, as calculated in accordance with GAAP), prior to the deduction for dividends paid and comply with various other requirements as a REIT. We will be subject to United States federal income tax on our undistributed REIT taxable income and net capital gain at corporate rates and to a 4% nondeductible excise tax on any amount by which distributions we pay with respect to any calendar year are less than the sum of (a) 85% of our ordinary income, (b) 95% of our capital gain net income and (c) 100% of our undistributed income from prior years. These requirements could inhibit our ability to finance our growth and cause us to distribute amounts that otherwise would be spent on investments in real estate assets and it is possible that we might be required to borrow funds, possibly at unfavorable rates, or sell assets to fund these distributions. Although we have made and intend to continue to make distributions sufficient to meet the annual distribution requirements and to avoid United States federal income taxes on our earnings while we qualify as a REIT, it is possible that we might not always be able to do so.

Certain of our business activities are potentially subject to the prohibited transaction tax, which could reduce the return on your investment.

For so long as we qualify as a REIT, our ability to dispose of property during the first few years following acquisition may be restricted to a substantial extent as a result of our REIT qualification. Under applicable provisions of the Code regarding prohibited transactions by REITs, we will be subject to a 100% penalty tax on any gain recognized on the sale or other disposition of any property (other than foreclosure property) that we own, directly or through any subsidiary entity, but generally excluding TRSs, that is deemed to be inventory or property held primarily for sale to customers in the ordinary course of a trade or business. Whether property is inventory or otherwise held primarily for sale to customers in the ordinary course of a trade or business depends on the particular facts and circumstances surrounding each property. While we qualify as a REIT, we will seek to avoid the 100% prohibited transaction tax by (a) conducting activities that may otherwise be considered prohibited transactions through a TRS (such TRS will incur income tax at corporate tax rates with respect to any income or gain recognized by it), (b) conducting our operations in such a manner so that no sale or other disposition of an asset we own, directly or through any subsidiary (other than a TRS), will be treated as a prohibited transaction, or (c) structuring certain dispositions of our properties to comply with a prohibited transaction safe harbor available under the Code for properties that have been held for at least two years. However, no assurance can be given that any particular property we own, directly or through any subsidiary entity, but generally excluding TRSs, will not be treated as inventory or property held primarily for sale to customers in the ordinary course of a trade or business.

The tax on prohibited transactions will limit our ability to engage in transactions, including certain methods of securitizing mortgage loans that would be treated as sales for United States federal income tax purposes.

A REIT's net income from prohibited transactions is subject to a 100% tax. In general, prohibited transactions are sales or other dispositions of property, other than foreclosure property, but including mortgage loans, held as inventory or primarily for sale to customers in the ordinary course of business. We might be subject to this tax if we were to sell or securitize loans in a manner that was treated as a sale of the loans as inventory for United States federal income tax purposes. Therefore, in order to avoid the prohibited transactions tax, we may choose not to engage in certain sales of loans, other than through a TRS, and we may be required to limit the structures we use for our securitization transactions, even though such sales or structures might otherwise be beneficial for us.

TRSs are subject to corporate-level taxes and dealings with TRSs may be subject to 100% excise tax.

A REIT may own up to 100% of the stock of one or more TRS. Both the subsidiary and the REIT must jointly elect to treat the subsidiary as a TRS. A corporation of which a TRS directly or indirectly owns more than 35% of the voting power or value of the stock will automatically be treated as a TRS. Overall, no more than 20% (25% for our taxable years beginning prior to January 1, 2018) of the gross value of a REIT's assets may consist of stock or securities of one or more TRSs, and the aggregate value of debt instruments issued by public REITs held by us that are not otherwise secured by real property may not exceed 25% of the value of our total assets. In addition, the TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. The rules also impose a 100% excise tax on certain transactions between a TRS and its parent REIT that are not conducted on an arm's-length basis.

ACRC W TRS, FL3 TRS, ACRC WM and other TRSs that we may form will pay United States federal, state and local income tax on their taxable income, and their after-tax net income will be available for distribution to us but will not be required to be distributed to us, unless necessary to maintain our REIT qualification. While we will be monitoring the aggregate value of the securities of our TRSs and intend to conduct our affairs so that such securities will represent less than 20% of the value of our total assets, there can be no assurance that we will be able to comply with the TRS limitation in all market conditions.

Our investments in certain debt instruments may cause us to recognize income for United States federal income tax purposes even though no cash payments have been received on the debt instruments, and certain modifications of such debt by us could cause the modified debt to not qualify as a good REIT asset, thereby jeopardizing our REIT qualification.

Our taxable income may substantially exceed our net income as determined based on GAAP, or differences in timing between the recognition of taxable income and the actual receipt of cash may occur. For example, we may acquire assets, including debt securities requiring us to accrue original issue discount or recognize market discount income, that generate taxable income in excess of economic income or in advance of the corresponding cash flow from the assets. In addition, if a borrower with respect to a particular debt instrument encounters financial difficulty rendering it unable to pay stated interest as due, we may nonetheless be required to continue to accrue and recognize the unpaid interest as taxable income with the effect that we will recognize income but will not have a corresponding amount of cash available for distribution to our stockholders.

As a result of the foregoing, we may generate less cash flow than taxable income in a particular year and find it difficult or impossible to meet the REIT distribution requirements in certain circumstances. In such circumstances, we may be required to (a) sell assets in adverse market conditions, (b) borrow on unfavorable terms, (c) distribute amounts that would otherwise be used for future acquisitions or used to repay debt, or (d) make a taxable distribution of our shares of common stock as part of a distribution in which stockholders may elect to receive shares of common stock or (subject to a limit measured as a percentage of the total distribution) cash, in order to comply with the REIT distribution requirements.

Moreover, we may acquire distressed debt investments that require subsequent modification by agreement with the borrower. If the amendments to the outstanding debt are “significant modifications” under the applicable Treasury Regulations, the modified debt may be considered to have been reissued to us in a debt-for-debt taxable exchange with the borrower. This deemed reissuance may prevent the modified debt from qualifying as a good REIT asset if the underlying security has declined in value and would cause us to recognize income to the extent the principal amount of the modified debt exceeds our adjusted tax basis in the unmodified debt.

The failure of mortgage loans subject to a repurchase agreement to qualify as a real estate asset would adversely affect our ability to qualify as a REIT.

We have entered into repurchase agreements under which we will nominally sell certain of our assets to a counterparty and simultaneously enter into an agreement to repurchase the sold assets. We believe that we will be treated for United States federal income tax purposes as the owner of the assets that are the subject of any such agreements notwithstanding that such agreements may transfer record ownership of the assets to the counterparty during the term of the agreement. It is possible, however, that the IRS could assert that we did not own the assets during the term of the repurchase agreement, in which case we could fail to qualify as a REIT if our remaining assets do not satisfy the asset tests or if our income does not satisfy the gross income tests.

The failure of mezzanine loans to qualify as a real estate asset would adversely affect our ability to qualify as a REIT.

In order for a loan to be treated as a qualifying real estate asset producing qualifying income for purposes of the REIT asset and income tests, generally the loan must be secured by real property or an interest in real property. We may originate or acquire mezzanine loans that are not directly secured by real property or an interest in real property but instead are secured by equity interests in a partnership or limited liability company that directly or indirectly owns real property or an interest in real property. In Revenue Procedure 2003-65, the IRS provided a safe harbor pursuant to which a mezzanine loan that is not secured by real estate would, if it meets each of the requirements contained in the Revenue Procedure, be treated by the IRS as a qualifying real estate asset. Although the Revenue Procedure provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law and in many cases it may not be possible for us to meet all the requirements of the safe harbor. We cannot provide assurance that any mezzanine loan in which we invest would be treated as a qualifying asset producing qualifying income for REIT qualification purposes. If any such loan fails either the REIT income or asset tests, we may be disqualified as a REIT.

Our qualification as a REIT and exemption from United States federal income tax with respect to certain assets may be dependent on the accuracy of legal opinions or advice rendered or given or statements by the issuers of assets that we acquire, and the inaccuracy of any such opinions, advice or statements may adversely affect our REIT qualification and result in corporate-level tax.

When purchasing securities, we may rely on opinions or advice of counsel for the issuer of such securities, or statements made in related offering documents, for purposes of determining whether such securities represent debt or equity

securities for United States federal income tax purposes, and also to what extent those securities constitute real estate assets for purposes of the asset tests and produce qualifying income for purposes of the 75% gross income test. In addition, when purchasing the equity tranche of a securitization, we may rely on opinions or advice of counsel regarding the qualification of the securitization for exemption from United States corporate income tax and the qualification of interests in such securitization as debt for United States federal income tax purposes. The inaccuracy of any such opinions, advice or statements may adversely affect our REIT qualification and result in significant corporate level tax.

The taxable mortgage pool, or "TMP," rules may increase the taxes that we or our stockholders may incur, and may limit the manner in which we effect future securitizations.

Our CLO securitizations resulted in the creation of a TMP for federal income tax purposes. Future securitizations by us or our consolidated subsidiaries could result in the creation of additional TMPs for United States federal income tax purposes. As a result, we could have "excess inclusion income." Certain categories of stockholders, such as non-United States stockholders eligible for treaty or other benefits, stockholders with net operating losses, and certain tax-exempt stockholders that are subject to unrelated business income tax, could be subject to increased taxes on a portion of their dividend income from us that is attributable to any such excess inclusion income. In the case of a stockholder that is a REIT, regulated investment company ("RIC"), common trust fund or other pass-through entity, our allocable share of our excess inclusion income could be considered excess inclusion income of such entity. In addition, to the extent that our common stock is owned by tax-exempt "disqualified organizations," such as certain government-related entities and charitable remainder trusts that are not subject to tax on unrelated business income, we may incur a corporate level tax on a portion of any excess inclusion income. Because this tax generally would be imposed on us, all of our stockholders, including stockholders that are not disqualified organizations, generally will bear a portion of the tax cost associated with the classification of us or a portion of our assets as a TMP. A RIC or other pass through entity owning our common stock in record name will be subject to tax at the highest United States federal corporate tax rate on any excess inclusion income allocated to their owners that are disqualified organizations. The manner in which excess inclusion income is calculated is not clear under current law. As required by IRS guidance, we intend to make such determinations based on what we believe to be a reasonable method. However, there can be no assurance that the IRS will not challenge our method of making any such determinations. If the IRS were to disagree with any such determinations made or with the method used by us, the amount of any excess inclusion income required to be taken into account by one or more stockholders, including tax-exempt stockholders, non-United States stockholders and stockholders with net operating losses, could be significantly increased. Moreover, we could face limitations in selling equity interests in these securitizations to outside investors, or selling any debt securities issued in connection with these securitizations that might be considered to be equity interests for tax purposes. Finally, if we were to fail to qualify as a REIT, any TMP securitizations would be treated as separate taxable corporations for United States federal income tax purposes that could not be included in any consolidated United States federal corporate income tax return. These limitations may prevent us from using certain techniques to maximize our returns from securitization transactions.

We may choose to make distributions in our own stock, in which case you may be required to pay income taxes in excess of the cash dividends you receive.

In connection with our qualification as a REIT, we are required to annually distribute to our stockholders at least 90% of our REIT taxable income (which does not equal net income, as calculated in accordance with GAAP), prior to the deduction for dividends paid and comply with various other requirements as a REIT. In order to satisfy this requirement, we may make distributions that are payable in cash and/or shares of our common stock (which could account for a significant percentage of the aggregate amount of such distributions) at the election of each stockholder. Taxable stockholders receiving such distributions will be required to include the full amount of such distributions as ordinary dividend income to the extent of our current or accumulated earnings and profits, as determined for United States federal income tax purposes. As a result, United States stockholders may be required to pay income taxes with respect to such distributions in excess of the cash portion of the distribution received. Accordingly, United States stockholders receiving a distribution of our shares may be required to sell shares received in such distribution or may be required to sell other stock or assets owned by them, at a time that may be disadvantageous, in order to satisfy any tax imposed on such distribution. If a United States stockholder sells the stock that it receives as part of the distribution in order to pay this tax, the sales proceeds may be less than the amount it must include in income with respect to the distribution, depending on the market price of our stock at the time of the sale. Furthermore, with respect to certain non-United States stockholders, we may be required to withhold United States tax with respect to such distribution, including in respect of all or a portion of such distribution that is payable in stock, by withholding or disposing of part of the shares included in such distribution and using the proceeds of such disposition to satisfy the withholding tax imposed. In addition, if a significant number of our stockholders determine to sell shares of our common stock in order to pay taxes owed on dividend income, such sale may put downward pressure on the market price of our common stock.

Various tax aspects of such a taxable cash/stock distribution are uncertain and have not yet been addressed by the IRS. No assurance can be given that the IRS will not impose requirements in the future with respect to taxable cash/stock distributions, including on a retroactive basis, or assert that the requirements for such taxable cash/stock distributions have not been met.

Dividends payable by REITs generally do not qualify for the reduced tax rates available for some dividends.

Currently, the maximum tax rate applicable to qualified dividend income payable to United States stockholders that are individuals, trusts and estates is 20%. Dividends payable by REITs, however, generally are not eligible for this reduced rate. Although this does not adversely affect the taxation of REITs or dividends payable by REITs, the more favorable rates applicable to regular corporate qualified dividends could cause investors who are individuals, trusts and estates to perceive investments in REITs to be relatively less attractive than investments in the stocks of non-REIT corporations that pay dividends, which could adversely affect the value of the shares of REITs, including our common stock. Tax rates could be changed in future legislation.

Complying with REIT requirements may limit our ability to hedge our liabilities effectively and may cause us to incur tax liabilities.

The REIT provisions of the Code may limit our ability to hedge our liabilities. Any income from a hedging transaction we enter into to manage risk of interest rate changes, price changes or currency fluctuations with respect to borrowings made or to be made to acquire or carry real estate assets or in certain cases to hedge previously acquired hedges entered into to manage risks associated with property that has been disposed of or liabilities that have been extinguished, if properly identified under applicable Treasury Regulations, does not constitute “gross income” for purposes of the 75% or 95% gross income tests. To the extent that we enter into other types of hedging transactions, the income from those transactions will likely be treated as non-qualifying income for purposes of both of the gross income tests. As a result of these rules, we may need to limit our use of advantageous hedging techniques or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRSs are subject to tax on gains and may expose us to greater risks associated with changes in interest rates than we would otherwise want to bear. In addition, losses in a TRS generally will not provide any tax benefit, except for being carried forward against future taxable income of such TRS.

Complying with REIT requirements may force us to forgo and/or liquidate otherwise attractive investment opportunities.

To maintain our qualification as a REIT, we must ensure that we meet the REIT gross income tests annually and that at the end of each calendar quarter, at least 75% of the value of our assets consists of cash, cash items, government securities and qualified REIT real estate assets, including certain mortgage loans and certain kinds of mortgage-related securities. The remainder of our investment in securities (other than government securities and qualified real estate assets) generally cannot include more than 10% of the outstanding voting securities of any one issuer or more than 10% of the total value of the outstanding securities of any one issuer. In addition, in general, no more than 5% of the value of our assets (other than government securities and qualified real estate assets) can consist of the securities of any one issuer, and no more than 20% of the value of our total assets can be represented by securities of one or more TRSs. If we fail to comply with these requirements at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification and suffering adverse tax consequences. As a result, we may be required to liquidate assets from our portfolio or not make otherwise attractive investments in order to maintain our qualification as a REIT. These actions could have the effect of reducing our income and amounts available for distribution to our stockholders.

We may be subject to adverse legislative or regulatory tax changes that could increase our tax liability, reduce our operating flexibility and reduce the price of our common stock.

In recent years, numerous legislative, judicial and administrative changes have been made in the provisions of United States federal income tax laws applicable to investments similar to an investment in shares of our common stock. Additional changes to the tax laws are likely to continue to occur, and we cannot assure you that any such changes will not adversely affect the taxation of a stockholder. Any such changes could have an adverse effect on an investment in our shares or on the market value or the resale potential of our assets. You are urged to consult with your tax advisor with respect to the impact of recent legislation on your investment in our shares and the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in our shares. You also should note that our counsel’s tax opinion is based

upon existing law, applicable as of the date of its opinion, all of which will be subject to change, either prospectively or retroactively.

Although REITs generally receive better tax treatment than entities taxed as regular corporations, it is possible that future legislation would result in a REIT having fewer tax advantages, and it could become more advantageous for a company that invests in real estate to elect to be treated for United States federal income tax purposes as a corporation. As a result, our charter provides our board of directors with the power, under certain circumstances, to revoke or otherwise terminate our REIT election and cause us to be taxed as a regular corporation, without the vote of our stockholders. Our board of directors has fiduciary duties to us and our stockholders and could only cause such changes in our tax treatment if it determines in good faith that such changes are in the best interest of our stockholders.

Potential characterization of distributions or gain on sale may be treated as unrelated business taxable income to tax-exempt investors.

If (a) we are a “pension-held REIT,” (b) a tax-exempt stockholder has incurred (or is deemed to have incurred) debt to purchase or hold our common stock or (c) a holder of common stock is a certain type of tax-exempt stockholder, dividends on, and gains recognized on the sale of, common stock by such tax-exempt stockholder may be subject to United States federal income tax as unrelated business taxable income under the Code.

GENERAL RISK FACTORS

Global economic, political and market conditions, including in the United States, could have a significant adverse effect on our business, financial condition and results of operations.

Deterioration in the economic conditions globally, including instability in financial markets, may pose a risk to our business. Financial markets have been affected at times by a number of global macroeconomic and political events, including large sovereign debts and fiscal deficits of several countries in Europe and in emerging markets jurisdictions, levels of non-performing loans on the balance sheets of European banks, the potential effect of any European country leaving the Eurozone, the effect of the United Kingdom leaving the European Union (the “EU”), market volatility and loss of investor confidence driven by political events, and the COVID-19 pandemic.

The Chinese capital markets have experienced periods of instability over the past several years and, more recently, market uncertainty and volatility have been magnified as a result of uncertainties regarding actual and potential shifts in U.S. and foreign, trade, economic and other policies, as well as rising trade tensions between the United States and China and hostilities between the United States and Iran.

Market and economic disruptions have affected, and may in the future affect, consumer confidence levels and spending, personal bankruptcy rates, levels of incurrence and default on consumer debt and home prices, among other factors. We cannot assure you that market disruptions, including the increased cost of funding for certain governments and financial institutions, will not impact the global economy, and we cannot assure you that assistance packages will be available, or if available, be sufficient to stabilize countries and markets affected by a financial crisis.

The current global financial market situation, as well as various social and political circumstances in the United States and around the world (including wars and other forms of conflict, terrorist acts, security operations and catastrophic events such as fires, floods, earthquakes, tornadoes, hurricanes and travel-related health concerns including pandemics and epidemics), may contribute to increased market volatility and economic uncertainties or deterioration in the United States and worldwide, which could adversely affect our business, financial condition or results of operations. Additionally, these market and economic disruptions cause interest rates to be volatile, which may negatively impact our ability to access the capital markets on favorable terms.

Cybersecurity risks and cyber incidents may adversely affect our business or the business of our borrowers by causing a disruption to our operations or the operations of our borrowers, a compromise or corruption of our confidential information or the confidential information of our borrowers and/or damage to our business relationships or the business relationships of our borrowers, all of which could negatively impact the business, financial condition and operating results of us or our borrowers.

A cyber incident is considered to be any adverse event that threatens the confidentiality, integrity or availability of the information resources of us or our borrowers. These incidents may be an intentional attack or an unintentional event and could involve gaining unauthorized access to our information systems or those of our borrowers for purposes of misappropriating

assets, stealing confidential information, corrupting data or causing operational disruption. The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusions, including by computer hackers, nation-state affiliated actors, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. We and our Manager's employees have been and expect to continue to be the target of fraudulent calls, emails and other forms of activities. The result of these incidents may include disrupted operations, misstated or unreliable financial data, liability for stolen assets or information, increased cybersecurity protection and insurance costs, litigation and damage to our business relationships.

The costs related to cyber or other security threats or disruptions may not be fully insured or indemnified by other means. As our and our borrowers' reliance on technology has increased, so have the risks posed to our information systems, both internal and those provided by Ares Management and third party service providers, and the information systems of our borrowers. Ares Management has implemented processes, procedures and internal controls to help mitigate cybersecurity risks and cyber intrusions, but these measures, as well as our increased awareness of the nature and extent of a risk of a cyber-incident, do not guarantee that a cyber-incident will not occur and/or that our financial results, operations or confidential information will not be negatively impacted by such an incident. Even the most well-protected information, networks, systems and facilities remain potentially vulnerable because the techniques used in such attempted security breaches evolve and generally are not recognized until launched against a target, and in some cases are designed not be detected and, in fact, may not be detected. Accordingly, we and our service providers may be unable to anticipate these techniques or to implement adequate security barriers or other preventative measures, and thus it is impossible for us and our service providers to entirely mitigate this risk. Cybersecurity risks require continuous and increasing attention and other resources from us to, among other actions, identify and quantify these risks, upgrade and expand our technologies, systems and processes to adequately address such risks. Such attention diverts time and other resources from other activities and there is no assurance that our efforts will be effective.

In addition, cybersecurity has become a top priority for regulators around the world, and some jurisdictions have enacted laws requiring companies to notify individuals of data security breaches involving certain types of personal data. If we fail to comply with the relevant laws and regulations, we could suffer financial loss, a disruption of our business, liability to investors, regulatory intervention or reputational damage.

Ineffective internal controls could impact our business and operating results.

Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls, or fraud. Even effective internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. If we fail to maintain the adequacy of our internal controls, including any failure to implement required new or improved controls, or if we experience difficulties in their implementation, our business and operating results could be harmed and we could fail to meet our financial reporting obligations.

We are subject to risks related to corporate social responsibility.

Our business faces increasing public scrutiny related to environmental, social and governance ("ESG") activities, which are increasingly considered to contribute to the long-term sustainability of a company's performance. A variety of organizations measure the performance of companies on ESG topics, and the results of these assessments are widely publicized. In addition, investment in funds that specialize in companies that perform well in such assessments are increasingly popular, and major institutional investors have publicly emphasized the importance of such ESG measures to their investment decisions.

We risk damage to our brand and reputation if we or affiliates of our Manager fail to act responsibly in a number of areas, such as diversity and inclusion, environmental stewardship, support for local communities, corporate governance and transparency and considering ESG factors in our investment processes. Adverse incidents with respect to ESG activities could impact the value of our brand, the cost of our operations and relationships with investors, all of which could adversely affect our business and results of operations. Additionally, the SEC has announced that it is working on proposals for mandatory disclosure of certain ESG-related matters. At this time, there is uncertainty regarding the scope of such proposals or when they would become effective. However, any additional mandatory disclosure or regulation related to ESG may adversely affect our business.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our principal executive offices are located at 245 Park Avenue, 42nd Floor, New York, NY 10167. Our principal executive and certain of our other offices are leased by our Manager or one of its affiliates from third parties and pursuant to the terms of our Management Agreement, we reimburse our Manager (or its affiliate, as applicable) for expenses (including our pro-rata portion of rent, telephone, printing, mailing, utilities, office furniture, equipment, machinery and other office, internal and overhead expenses) relating to such offices, including disaster backup recovery sites and facilities maintained for us, our affiliates, our investments or our Manager or its affiliates required for our operation.

In 2019, we acquired legal title to a hotel property located in New York through a deed in lieu of foreclosure. Prior to our acquisition, the hotel property collateralized a $38.6 million senior mortgage loan that we held that was in maturity default due to the failure of the borrower to repay the outstanding principal balance of the loan by the December 2018 maturity date. In conjunction with the deed in lieu of foreclosure, we derecognized the $38.6 million senior mortgage loan and recognized the hotel property as real estate owned.

Item 3. Legal Proceedings

In the normal course of business, we may be subject to various legal proceedings from time to time. Furthermore, third parties may try to seek to impose liability on us in connection with our loans. As of December 31, 2021, we were not subject to any material pending legal proceedings. If the COVID-19 pandemic continues and market conditions worsen, litigation may increase to the extent we find it necessary to foreclose or otherwise enforce remedies with respect to loans that are in default, which borrowers may seek to resist by asserting counterclaims and defenses against us.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market For Registrant's Common Equity, Related Stockholder Matters And Issuer Purchases Of Equity Securities

COMMON STOCK

Our common stock is listed for trading on the NYSE under the symbol "ACRE." On February 14, 2022, the closing price of our common stock, as reported on the NYSE, was $14.10 per share.

HOLDERS

As of February 14, 2022, there were 136 holders of record of our common stock, including Cede & Co, which holds shares as nominee for the Depository Trust Company, which itself holds shares on behalf of the beneficial owners of shares of our common stock. This number does not include beneficial owners who hold shares of our common stock in nominee name. Such information was obtained through our registrar and transfer agent, based on the results of a broker search.

DISTRIBUTION POLICY

We elected to be taxed as a REIT for United States federal income tax purposes and, as such, we are generally required to annually distribute to our stockholders at least 90% of our REIT taxable income prior to the deduction for dividends paid. If we distribute less than 100% of our REIT taxable income in any tax year (taking into account any distributions made in a subsequent tax year under Sections 857(b)(9) or 858 of the Code), we will pay tax at regular corporate rates on that undistributed portion. This 90% distribution requirement does not require the distribution of net capital gains. However, if a REIT elects to retain any of its net capital gain for any tax year, it must notify its stockholders and pay tax at regular corporate rates on the retained net capital gain. For the year ended December 31, 2021, we plan to satisfy the REIT distribution requirement in part with dividends paid in 2022. For the year ended December 31, 2020, we elected to satisfy the REIT distribution requirement in part with dividends paid in 2021. Furthermore, if we distribute less than the sum of 1) 85% of our ordinary income for the calendar year, 2) 95% of our capital gain net income for the calendar year, and 3) any undistributed shortfall from our prior calendar year (the "Required Distribution") to our stockholders during any calendar year (including any distributions declared by the last day of the calendar year but paid in January of the subsequent year), then we are required to pay non-deductible excise tax equal to 4% of any shortfall between the Required Distribution and the amount that was actually distributed. Any of these taxes would decrease cash available for distribution to our stockholders. For the years ended December 31, 2021, 2020 and 2019, we accrued an excise tax of $272 thousand, $369 thousand and $302 thousand, respectively. Excise tax payable is included in the line item "Other liabilities" in the consolidated balance sheets included in this annual report on Form 10-K. Excise tax expense is included in the line item "Income tax expense, including excise tax" in the consolidated statements of operations included in this annual report on Form 10-K.

We cannot assure our stockholders, however, that the current level of distributions will be sustained, as any distributions that we pay in the future will depend upon our actual results of operations, economic conditions and other factors that could materially alter our expectations. Before we make any distributions, whether for United States federal income tax purposes or otherwise, we must first meet both our operating requirements and debt service on the Financing Agreements and other debt payable. If our cash available for distribution is less than our REIT taxable income, we could be required to sell assets or borrow funds to make cash distributions or we may make a portion of the Required Distribution in the form of a taxable stock distribution or distribution of debt securities.

Any distributions we make to our stockholders will be at the discretion of our board of directors and will depend upon our earnings, financial condition, liquidity, debt covenants, funding or margin requirements under securitizations, warehouse facilities or other secured and unsecured borrowing agreements, maintenance of our REIT qualification, applicable provisions of the Maryland General Corporation Law, and such other factors as our board of directors deems relevant. The Financing Agreements provide that in an event of default, we may make distributions only to the extent necessary to maintain our status as a REIT. Our earnings, financial condition and liquidity will be affected by various factors, including the net interest and other income from our portfolio, our operating expenses and any other expenditures. See "Risk Factors" included in this annual report on Form 10-K.

Distributions that stockholders receive (not designated as capital gain dividends or qualified dividend income) will be taxed as ordinary income to the extent they are paid from our earnings and profits (as determined for United States federal income tax purposes), but may be eligible for a 20% deduction under section 199A of the Code. However, distributions that we designate as capital gain dividends generally will be taxable as long-term capital gain to our stockholders. Some portion of

these distributions may not be subject to tax in the year in which they are received because depreciation expense reduces the amount of taxable income, but does not reduce cash available for distribution. The portion of our stockholders distribution that is not designated as a capital gain dividend and is in excess of our current and accumulated earnings and profits is considered a return of capital for United States federal income tax purposes and will reduce the adjusted tax basis of their investment, but not below zero, deferring such portion of their tax until their investment is sold or our company is liquidated, at which time they will be taxed at capital gain rates (subject to certain exceptions). If such portion of our stockholders distribution exceeds the adjusted tax basis of their investment, such excess will be treated as capital gain if they hold their shares of common stock as a capital asset for United States federal income tax purposes. Depending on the level of taxable income earned in a tax year, we may choose to carry forward taxable income for distribution in the following year, and pay any applicable excise tax. We will furnish annually to each of our stockholders a statement setting forth distributions paid during the preceding year and their characterization as ordinary income, return of capital, qualified dividend income or capital gain. Please note that each stockholder's tax considerations are different, and therefore, our stockholders should consult with their own tax advisors and financial planners prior to making an investment in our shares.

RECENT SALES OF UNREGISTERED SECURITIES

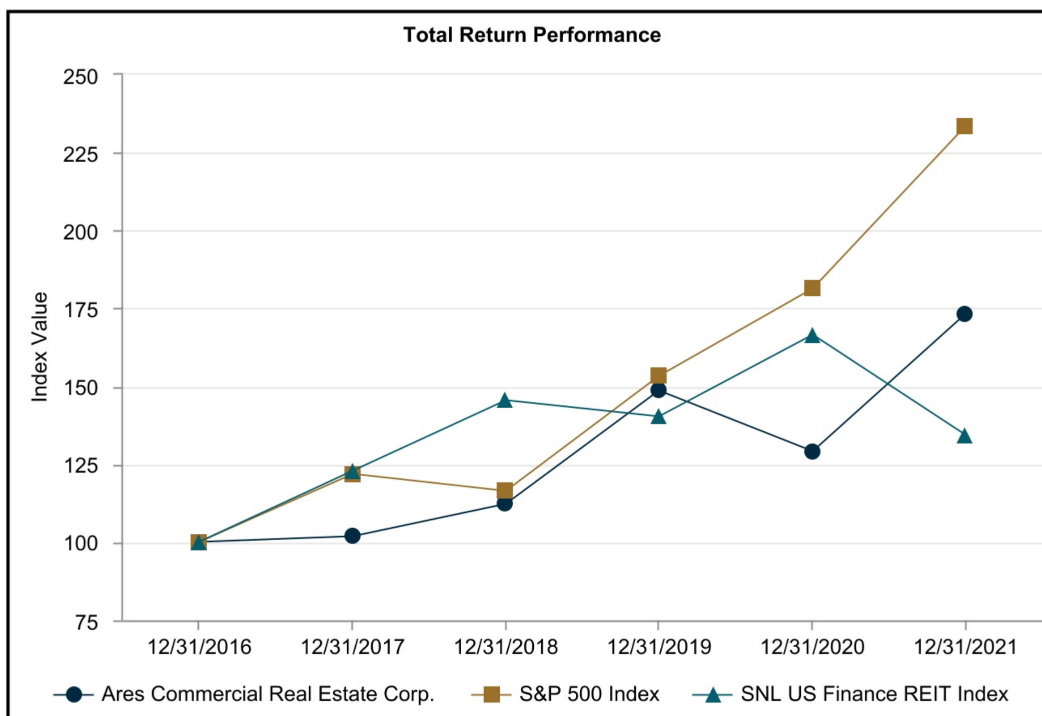
None.

ISSUERS PURCHASES OF EQUITY SECURITIES

None.

STOCK PERFORMANCE GRAPH

Comparison of Cumulative Total Return



SOURCE: Bloomberg

NOTES: Assumes $100 invested on December 31, 2016 in ACRE, the S&P 500 Index and the SNL US Finance REIT Index. Assumes all dividends are reinvested on the respective dividend payment dates without commissions.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

We are a specialty finance company primarily engaged in originating and investing in CRE loans and related investments. We are externally managed by ACREM, a subsidiary of Ares Management, a publicly traded, leading global alternative asset manager, pursuant to the terms of the Management Agreement. From the commencement of our operations in late 2011, we have been primarily focused on directly originating and managing a diversified portfolio of CRE debt-related investments for our own account.

We were formed and commenced operations in late 2011. We are a Maryland corporation and completed our initial public offering in May 2012. We have elected and qualified to be taxed as a REIT for United States federal income tax purposes under the Internal Revenue Code of 1986, as amended, commencing with our taxable year ended December 31, 2012. We generally will not be subject to United States federal income taxes on our REIT taxable income as long as we annually distribute to stockholders an amount at least equal to our REIT taxable income prior to the deduction for dividends paid and comply with various other requirements as a REIT. We also operate our business in a manner that is intended to permit us to maintain our exemption from registration under the 1940 Act.

Below are significant developments during the year ended December 31, 2021 presented by quarter:

Developments During the First Quarter of 2021:

- ACRE originated a $45.0 million senior mortgage loan and a $13.9 million mezzanine loan on a mixed-use property located in California.
- ACRE purchased a $105.5 million senior mortgage loan on an office property located in Illinois from the $200 million real estate debt warehouse investment vehicle maintained by an affiliate of the Company's Manager (the "Ares Warehouse Vehicle").
- ACRE purchased a $5.6 million senior mortgage loan on a self storage property located in Illinois from the Ares Warehouse Vehicle.
- ACRE purchased a $6.4 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle.
- ACRE purchased a $4.4 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle.
- ACRE purchased a $7.0 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle.
- ACRE purchased a $10.8 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle.
- ACRE purchased a $6.5 million senior mortgage loan on a self storage property located in Missouri from the Ares Warehouse Vehicle.
- ACRE Commercial Mortgage 2021-FL4 Ltd. (the "FL4 Issuer") and ACRE Commercial Mortgage 2021-FL4 LLC, both wholly owned indirect subsidiaries of ACRE, issued approximately $603.0 million principal balance secured floating rate notes and $64.3 million of preferred equity in the FL4 Issuer. ACRE retained (through one of its wholly owned subsidiaries) approximately $62.5 million of the FL4 CLO Securitization.
- ACRE entered into an interest rate swap (the "Swap") with Morgan Stanley Capital Services, LLC ("Morgan Stanley Capital") for the initial notional amount of $870.0 million, which amortizes according to an agreed upon notional schedule. The Swap requires ACRE to pay a fixed interest rate of 0.2075% and for Morgan Stanley Capital to pay a floating rate equal to one-month LIBOR, subject to a 0.00% floor. The Swap has a termination date of December 15, 2023.
- ACRE entered into an interest rate cap (the "Cap") with Morgan Stanley Capital for the initial notional amount of $275.0 million, which amortizes according to an agreed upon notional schedule. The Cap is tied to one-month LIBOR with a strike rate of 0.50%. The Cap has a termination date of December 15, 2023.
- ACRE entered into an underwriting agreement (the "March 2021 Underwriting Agreement") in which ACRE agreed to sell an aggregate of 7,000,000 shares of ACRE's common stock, par value $0.01 per share. The public offering generated net proceeds of approximately $100.7 million, after deducting transaction expenses.

Developments During the Second Quarter of 2021:

- ACRE originated a $19.5 million senior mortgage loan on a student housing property located in Alabama.
- ACRE originated a $15.0 million mezzanine loan on a portfolio of self storage properties located in New Jersey. Subsequent to the origination of the $15.0 million mezzanine loan, ACRE purchased a $40.5 million senior mortgage loan on the same portfolio of self storage properties from the Ares Warehouse Vehicle.

- ACRE purchased a $53.3 million senior mortgage loan on a residential condominium property located in New York from a third party. At the purchase date, ACRE already owned the corresponding $18.6 million mezzanine loan.
- ACRE purchased a $100.7 million senior mortgage loan on an industrial property located in Illinois from the Ares Warehouse Vehicle.
- ACRE originated a $37.5 million senior mortgage loan on a multifamily property located in South Carolina.
- ACRE purchased a $44.7 million senior mortgage loan on an industrial property located in New Jersey from the Ares Warehouse Vehicle.
- ACRE Commercial Mortgage 2017-FL3 Ltd. (the "FL3 Issuer") and ACRE Commercial Mortgage 2017-FL3 LLC (the "FL3 Co-Issuer") entered into a First Supplement to Amended and Restated Indenture (the "2021 Amended Indenture") with Wells Fargo Bank, National Association, as advancing agent and note administrator, and Wilmington Trust, National Association, as trustee, which governs the FL3 CLO Securitization. The purpose of the 2021 Amended Indenture was to, among other things, extend the reinvestment period to March 31, 2024, extend the date on and after which the FL3 Issuer may redeem the Notes held by third parties to March 17, 2025 (the "Redemption Date"), and eliminate the prepayment fee due on the Redemption Date.
- ACRE entered into an underwriting agreement (the "June 2021 Underwriting Agreement") in which ACRE agreed to sell an aggregate of 6,500,000 shares of ACRE's common stock, par value $0.01 per share. The public offering generated net proceeds of approximately $101.6 million, after deducting transaction expenses.

Developments During the Third Quarter of 2021:

- ACRE purchased a $78.3 million pari-passu participation in a $227.1 million senior mortgage loan on a mixed use property located in New York from an Ares Management managed investment vehicle.
- ACRE originated a $75.0 million senior mortgage loan on a residential condominium property located in Florida.
- ACRE originated an $81.0 million senior mortgage loan on an office property located in New York.
- ACRE purchased a $3.2 million senior mortgage loan on a self storage property located in Colorado from a third party.
- ACRE purchased an $8.6 million senior mortgage loan on a self storage property located in Arizona from a third party.
- ACRE purchased a $7.4 million senior mortgage loan on a self storage property located in Arizona from a third party.
- ACRE originated a $20.8 million senior mortgage loan on an industrial property located in Colorado.
- ACRE purchased an $85.0 million pari-passu note in a senior mortgage loan on an office property located in North Carolina from an Ares Management managed investment vehicle.
- ACRE originated a $1.3 million senior mortgage loan on an industrial property located in Georgia.
- ACRE originated a $3.0 million senior mortgage loan on an industrial property located in Pennsylvania.
- ACRE originated a $2.9 million senior mortgage loan on an industrial property located in Colorado.
- ACRE originated an $89.7 million pari-passu participation in a $115.7 million senior mortgage loan on an office property located in Arizona. Subsequent to the origination of the $89.7 million participation, ACRE purchased the remaining $26.0 million pari-passu participation from the Ares Warehouse Vehicle.
- ACRE originated a $2.7 million senior mortgage loan on an industrial property located in Arizona.

Developments During the Fourth Quarter of 2021:

- ACRE originated a $23.1 million senior mortgage loan on a multifamily property located in Texas.
- ACRE originated a $6.7 million senior mortgage loan on an industrial property located in Tennessee.
- ACRE originated a $7.0 million senior mortgage loan on an industrial property located in Pennsylvania.
- ACRE originated a $9.5 million senior mortgage loan on an industrial property located in Florida.
- ACRE purchased a $9.0 million senior mortgage loan on a self storage property located in Missouri from a third party.
- ACRE purchased a $10.2 million senior mortgage loan on a self storage property located in Washington from a third party.
- ACRE purchased a $12.2 million senior mortgage loan on a self storage property located in Maryland from a third party.
- ACRE purchased a $12.5 million senior mortgage loan on a self storage property located in Maryland from a third party.
- ACRE purchased a $12.8 million senior mortgage loan on a self storage property located in Pennsylvania from a third party.
- ACRE originated a $10.4 million senior mortgage loan on an industrial property located in Texas.
- ACRE originated a $31.7 million senior mortgage loan on a multifamily property located in California.
- ACRE originated a $68.8 million senior mortgage loan on a multifamily property located in Texas.
- ACRE purchased a $67.0 million senior mortgage loan on a multifamily property and office property located in South Carolina from the Ares Warehouse Vehicle.
- ACRE purchased a $23.1 million senior mortgage loan on a multifamily property located in Washington from the Ares Warehouse Vehicle.
- ACRE purchased a $30.9 million senior mortgage loan on an industrial property located in Texas from the Ares Warehouse Vehicle.

- ACRE purchased a $25.5 million senior mortgage loan on an industrial property located in Florida from the Ares Warehouse Vehicle.
- ACRE upsized an existing senior mortgage loan by $5.1 million on an industrial property located in Pennsylvania.
- ACRE entered into a Purchase and Sale Agreement to sell the hotel property that is recognized as real estate owned in its consolidated balance sheets to a third party for $40.0 million and the sale is expected to close in the first quarter of 2022.
- ACRE elected to increase the maximum commitment for the Wells Fargo Facility from $350.0 million to $450.0 million.
- ACRE amended the CNB Facility to, among other things, (1) increase the commitment amount from $50.0 million to $75.0 million and (2) update the interest rate on advances under the CNB Facility to a per annum rate equal to the sum of, at the Company's option, either (a) Daily Simple SOFR (with a 0.35% floor) plus 2.65% or (b) a base rate (which is the highest of a prime rate, the federal funds rate plus 0.50%, or Daily Simple SOFR plus 1.00%) plus 1.00%; provided that in no event shall the interest rate be less than 2.65%.
- ACRE amended the Secured Term Loan to, among other things, (1) increase the commitment amount from $60.0 million to $150.0 million, (2) extend the maturity date of the Secured Term Loan to November 12, 2026 and (3) update the interest rate on advances under the Secured Term Loan to the following fixed rates: (i) 4.50% per annum until May 12, 2025, (ii) after May 12, 2025 through November 12, 2025, the interest rate increases 0.125% every three months and (iii) after November 12, 2025 through November 12, 2026, the interest rate increases 0.250% every three months.

Factors Impacting Our Operating Results

The results of our operations are affected by a number of factors and primarily depend on, among other things, the level of our net interest income, the market value of our assets and the supply of, and demand for, commercial mortgage loans, CRE debt and other financial assets in the marketplace. Our net interest income, which reflects the amortization of origination fees and direct costs, is recognized based on the contractual rate and the outstanding principal balance of the loans we originate. Interest rates will vary according to the type of investment, conditions in the financial markets, creditworthiness of our borrowers, competition and other factors, none of which can be predicted with any certainty. Our operating results may also be impacted by credit losses in excess of initial anticipations or unanticipated credit events experienced by borrowers.

Changes in Fair Value of Our Assets. We originate CRE debt and related instruments generally to be held for investment. Loans that are held for investment are carried at cost, net of unamortized loan fees and origination costs (the "carrying value").

Loans are generally collateralized by real estate. The extent of any credit deterioration associated with the performance and/or value of the underlying collateral property and the financial and operating capability of the borrower could impact the expected amounts received. We monitor the performance of our loans held for investment portfolio under the following methodology: (1) borrower review, which analyzes the borrower's ability to execute on its original business plan, reviews its financial condition, assesses pending litigation and considers its general level of responsiveness and cooperation; (2) economic review, which considers underlying collateral (i.e. leasing performance, unit sales and cash flow of the collateral and its ability to cover debt service, as well as the residual loan balance at maturity); (3) property review, which considers current environmental risks, changes in insurance costs or coverage, current site visibility, capital expenditures and market perception; and (4) market review, which analyzes the collateral from a supply and demand perspective of similar property types, as well as from a capital markets perspective. Such analyses are completed and reviewed by asset management and finance personnel who utilize various data sources, including periodic financial data such as property occupancy, tenant profile, rental rates, operating expenses, and the borrower's exit plan, among other factors.

Loans are generally placed on non-accrual status when principal or interest payments are past due 30 days or more or when there is reasonable doubt that principal or interest will be collected in full. Accrued and unpaid interest is generally reversed against interest income in the period the loan is placed on non-accrual status. Interest payments received on non-accrual loans may be recognized as income or applied to principal depending upon management's judgment regarding the borrower's ability to make pending principal and interest payments. Non-accrual loans are restored to accrual status when past due principal and interest are paid and, in management's judgment, are likely to remain current. We may make exceptions to placing a loan on non-accrual status if the loan has sufficient collateral value and is in the process of collection. Other than as set forth in Note 3 to our consolidated financial statements included in this annual report on Form 10-K, as of December 31, 2021, all loans held for investment were paying in accordance with their contractual terms. As of December 31, 2020, all loans were paying in accordance with their contractual terms. As of December 31, 2021, the Company had two loans held for investment on non-accrual status with a carrying value of $45.0 million. As of December 31, 2020, the Company had three loans held for investment on non-accrual status with a carrying value of $67.1 million.

Loan balances that are deemed to be uncollectible are written off as a realized loss and are deducted from the current expected credit loss reserve. The write-offs are recorded in the period in which the loan balance is deemed uncollectible based on management's judgment. There were no write-offs during the years ended December 31, 2021, 2020 and 2019.

Changes in Market Interest Rates. With respect to our business operations, increases in interest rates, in general, may over time cause:

- the interest expense associated with our borrowings to increase, subject to any applicable ceilings;
- the value of our mortgage loans to decline;
- coupons on our floating rate mortgage loans to reset to higher interest rates; and
- to the extent we enter into interest rate swap agreements as part of our hedging strategy where we pay fixed and receive floating interest rates, the value of these agreements to increase.

Conversely, decreases in interest rates, in general, may over time cause:

- the interest expense associated with our borrowings to decrease, subject to any applicable floors;
- the value of our mortgage loan portfolio to increase, for such mortgages with applicable floors;
- coupons on our floating rate mortgage loans to reset to lower interest rates, subject to any applicable floors; and
- to the extent we enter into interest rate swap agreements as part of our hedging strategy where we pay fixed and receive floating interest rates, the value of these agreements to decrease.

Credit Risk. We are subject to varying degrees of credit risk in connection with our target investments. Our Manager seeks to mitigate this risk by seeking to originate or acquire investments of higher quality at appropriate prices with appropriate risk adjusted returns given anticipated and unanticipated losses, by employing a comprehensive review and selection process and by proactively monitoring originated or acquired investments (see the performance monitoring methodology above in Changes in Fair Value of Our Assets). Nevertheless, unanticipated credit losses could occur that could adversely impact our operating results and stockholders' equity.

Performance of Commercial Real Estate Related Markets. Our business is dependent on the general demand for, and value of, commercial real estate and related services, which are sensitive to economic conditions. Demand for multifamily and other commercial real estate generally increases during periods of stronger economic conditions, resulting in increased property values, transaction volumes and loan origination volumes. During periods of weaker economic conditions, multifamily and other commercial real estate may experience higher property vacancies, lower demand and reduced values. These conditions can result in lower property transaction volumes and loan originations.

Availability of Leverage and Equity. We expect to use leverage to make additional investments that may increase our potential returns. We may not be able to obtain the amount of leverage we desire and, consequently, the returns generated from our investments may be less than we currently expect. To grow our portfolio of investments, we also may determine to raise additional equity. Our access to additional equity will depend on many factors, and our ability to raise equity in the future cannot be predicted at this time.

Size of Portfolio. The size of our portfolio of investments, as measured both by the aggregate principal balance and the number of our CRE loans and our other investments, will also be an important factor in determining our operating results. Generally, as the size of our portfolio grows, the amount of interest income we receive will increase and we may achieve certain economies of scale and diversify risk within our portfolio investments. A larger portfolio, however, may result in increased expenses; for example, we may incur additional interest expense or other costs to finance our investments. Also, if the aggregate principal balance of our portfolio grows but the number of our loans or the number of our borrowers does not grow, we could face increased risk by reason of the concentration of our investments.

Loans Held for Investment Portfolio

As of December 31, 2021, our portfolio included 72 loans held for investment, excluding 116 loans that were repaid, sold or converted to real estate owned since inception. As of December 31, 2021, the aggregate originated commitment under these loans at closing was approximately $2.8 billion and outstanding principal was $2.4 billion. During the year ended December 31, 2021, we funded approximately $1.3 billion of outstanding principal and received repayments of $657.2 million of outstanding principal. As of December 31, 2021, 93.1% of our loans have LIBOR floors, with a weighted average floor of 1.10%, calculated based on loans with LIBOR floors. References to LIBOR or "L" are to 30-day LIBOR (unless otherwise specifically stated).

Other than as set forth in Note 3 to our consolidated financial statements included in this annual report on Form 10-K, as of December 31, 2021, all loans held for investment were paying in accordance with their contractual terms.

Our loans held for investment are accounted for at amortized cost. The following table summarizes our loans held for investment as of December 31, 2021 ($ in thousands):

	As of December 31, 2021				
	Carrying Amount (1)	Outstanding Principal (1)	Weighted Average Unleveraged Effective Yield		Weighted Average Remaining Life (Years)
Senior mortgage loans	$ 2,397,655	$ 2,411,718	5.3 % (2)	5.4 % (3)	1.5
Subordinated debt and preferred equity investments	16,728	17,394	13.7 % (2)	13.7 % (3)	4.0
Total loans held for investment portfolio	$ 2,414,383	$ 2,429,112	5.4 % (2)	5.5 % (3)	1.6

____

(1) The difference between the Carrying Amount and the Outstanding Principal amount of the loans held for investment consists of unamortized purchase discount, deferred loan fees and loan origination costs.

(2) Unleveraged Effective Yield is the compounded effective rate of return that would be earned over the life of the investment based on the contractual interest rate (adjusted for any deferred loan fees, costs, premiums or discounts) and assumes no dispositions, early prepayments or defaults. The total Weighted Average Unleveraged Effective Yield is calculated based on the average of Unleveraged Effective Yield of all loans held by us as of December 31, 2021 as weighted by the outstanding principal balance of each loan.

(3) Unleveraged Effective Yield is the compounded effective rate of return that would be earned over the life of the investment based on the contractual interest rate (adjusted for any deferred loan fees, costs, premiums or discounts) and assumes no dispositions, early prepayments or defaults. The total Weighted Average Unleveraged Effective Yield is calculated based on the average of Unleveraged Effective Yield of all interest accruing loans held by us as of December 31, 2021 as weighted by the total outstanding principal balance of each interest accruing loan (excludes loans on non-accrual status as of December 31, 2021).

Critical Accounting Estimates

Our consolidated financial statements have been prepared in accordance with generally accepted accounting principles ("GAAP"), which require management to make estimates and assumptions that affect reported amounts. The estimates and assumptions are based on historical experience and other factors management believes to be reasonable. Actual results may differ from those estimates and assumptions. We believe the following critical accounting policy represents an area where more significant judgments and estimates are used in the preparation of our consolidated financial statements.

Current Expected Credit Loss Reserve. In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. The standard replaced the incurred loss impairment methodology pursuant to GAAP with a methodology that reflects current expected credit losses ("CECL") on both the outstanding balances and unfunded commitments on loans held for investment and requires consideration of a broader range of historical experience adjusted for current conditions and reasonable and supportable forecast information to inform credit loss estimates (the "CECL Reserve"). ASU No. 2016-13 was effective for annual reporting periods beginning after December 15, 2019, including interim periods within that reporting period. We adopted ASU No. 2016-13 on a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of January 1, 2020. Subsequent period increases and decreases to expected credit losses impact earnings and are recorded within provision for current expected credit losses in our consolidated statements of operations. The CECL Reserve related to outstanding balances on loans held for investment required

under ASU No. 2016-13 is a valuation account that is deducted from the amortized cost basis of our loans held for investment in our consolidated balance sheets. The CECL Reserve related to unfunded commitments on loans held for investment is recorded within other liabilities in our consolidated balance sheets.

We estimate our CECL Reserve primarily using a probability-weighted model that considers the likelihood of default and expected loss given default for each individual loan. Calculation of the CECL Reserve requires loan specific data, which includes capital senior to us when we are the subordinate lender, changes in net operating income, debt service coverage ratio, loan-to-value, occupancy, property type and geographic location. Estimating the CECL Reserve also requires significant judgment with respect to various factors, including (i) the appropriate historical loan loss reference data, (ii) the expected timing of loan repayments, (iii) calibration of the likelihood of default to reflect the risk characteristics of our floating-rate loan portfolio and (iv) our current and future view of the macroeconomic environment. We may consider loan-specific qualitative factors on certain loans to estimate our CECL Reserve. In order to estimate the future expected loan losses relevant to our portfolio, we utilize historical market loan loss data licensed from a third party data service. The third party's loan database includes historical loss data for commercial mortgage-backed securities, or CMBS, issued dating back to 1998, which we believe is a reasonably comparable and available data set to our type of loans.

See Note 4 included in these consolidated financial statements for CECL related disclosures.

Recent Accounting Pronouncements

See Note 2 to our consolidated financial statements included in this annual report on Form 10-K, which describes recent accounting pronouncements that we have adopted or are currently evaluating.

RECENT DEVELOPMENTS

On January 13, 2022, we amended the Citibank Facility (as defined herein) to, among other things, extend the initial maturity date and funding availability period to January 13, 2025, subject to two 12-month extensions, each of which may be exercised at our option assuming no existing defaults under the Citibank Facility and applicable extension fees being paid, which, if both were exercised, would extend the maturity date of the Citibank Facility to January 13, 2027. The amendment also modified the interest rate provisions in the Citibank Facility such that advances under the Citibank Facility in connection with new loans pledged to the Citibank Facility will utilize term SOFR or a SOFR average, at the election of ACRE.

On February 10, 2022, ACRC Lender C LLC ("ACRC Lender C"), a subsidiary of ACRE and ACRE, as guarantor, entered into a second amendment to the Second Amended and Restated Substitute Guaranty related to the Citibank Facility. The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender MS LLC ("ACRC Lender MS"), a subsidiary of ACRE and ACRE, as guarantor, entered into an amendment to the Guaranty and Indemnity related to the Morgan Stanley Facility (as defined herein). The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRE, as guarantor, entered into a second amendment to the Guaranty related to the MetLife Facility (as defined herein). The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender W LLC and ACRC Lender W TRS (collectively, "ACRC Lender W"), each a subsidiary of ACRE, and ACRE, as guarantor, entered into (i) the Third Amended and Restated Master Repurchase and Securities Contract and (ii) the Second Amended and Restated Guarantee, each with Wells Fargo Bank, National Association ("Wells Fargo"). The purpose of the amendments are to, among other things, (a) modify the interest rate provisions in the Wells Fargo Facility such that financings under the Wells Fargo Facility (as defined herein) in connection with new loans pledged to the Wells Fargo Facility will utilize term SOFR or a SOFR average, as agreed between ACRC Lender W and Wells Fargo, (b) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (c) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 14, 2022, we originated and fully funded a $5.9 million senior mortgage loan on an industrial property located in Florida. The loan has a per annum interest rate of LIBOR plus 5.90%.

On February 14, 2022, we originated and fully funded a $4.7 million senior mortgage loan on an industrial property located in Florida. The loan has a per annum interest rate of LIBOR plus 5.75%.

Our Board of Directors declared a regular cash dividend of $0.33 per common share and a supplemental cash dividend of $0.02 per common share for the first quarter of 2022. The first quarter 2022 and supplemental cash dividends will be payable on April 14, 2022 to common stockholders of record as of March 31, 2022.

RESULTS OF OPERATIONS

For the years ended December 31, 2021 and 2020

The following table sets forth a summary of our consolidated results of operations for the years ended December 31, 2021 and 2020 ($ in thousands):

	For the years ended December 31,	
	2021	**2020**
Total revenue	$ 102,069	$ 82,696
Total expenses	40,877	36,311
Provision for current expected credit losses	10	20,185
Realized losses on loans sold	—	4,008
Income before income taxes	61,182	22,192
Income tax expense, including excise tax	722	352
Net income attributable to common stockholders	$ 60,460	$ 21,840

The following tables set forth select details of our consolidated results of operations for the years ended December 31, 2021 and 2020 ($ in thousands):

Net Interest Margin

	For the years ended December 31,	
	2021	**2020**
Interest income	$ 133,631	$ 121,052
Interest expense	(50,080)	(51,949)
Net interest margin	$ 83,551	$ 69,103

For the years ended December 31, 2021 and 2020, net interest margin was approximately $83.6 million and $69.1 million, respectively. For the years ended December 31, 2021 and 2020, interest income of $133.6 million and $121.1 million, respectively, was generated by weighted average earning assets of $2.2 billion and $1.8 billion, respectively, offset by $50.1 million and $51.9 million, respectively, of interest expense, unused fees and amortization of deferred loan costs. The weighted average borrowings under the Wells Fargo Facility, the Citibank Facility, the CNB Facility, the MetLife Facility and the Morgan Stanley Facility (individually defined below and collectively, the "Secured Funding Agreements"), Notes Payable (as defined below and excluding the Note Payable on the hotel property that is recognized as real estate owned in our consolidated balance sheets), the Secured Term Loan, Secured Borrowings and securitization debt (as defined below) were $1.6 billion for the year ended December 31, 2021 and $1.5 billion for the year ended December 31, 2020. The increase in net interest margin for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to an increase in our weighted average earning assets and weighted average borrowings for the year ended December 31, 2021. In addition, in January 2021, we issued $540.5 million of securitization debt, a portion of the proceeds of which were used to pay down debt with a higher cost of funds than the issued securitization debt.

Revenue From Real Estate Owned

On March 8, 2019, we acquired legal title to a hotel property through a deed in lieu of foreclosure. Prior to March 8, 2019, the hotel property collateralized a $38.6 million senior mortgage loan that we held that was in maturity default due to the failure of the borrower to repay the outstanding principal balance of the loan by the December 2018 maturity date. In conjunction with the deed in lieu of foreclosure, we derecognized the $38.6 million senior mortgage loan and recognized the

hotel property as real estate owned. For the years ended December 31, 2021 and 2020, revenue from real estate owned was $18.5 million and $13.6 million, respectively. Revenues consist of room sales, food and beverage sales and other hotel revenues. The increase in revenue from real estate owned for the year ended December 31, 2021 compared to the year ended December 31, 2020 is primarily due to the ongoing recovery from the impact of the COVID-19 pandemic as occupancy and overall revenue at the hotel property increased for the year ended December 31, 2021.

Operating Expenses

	For the years ended December 31,	
	2021	**2020**
Management and incentive fees to affiliate	$ 12,136	$ 8,159
Professional fees	2,436	2,640
General and administrative expenses	4,741	3,732
General and administrative expenses reimbursed to affiliate	3,016	3,653
Expenses from real estate owned	18,548	18,127
Total expenses	$ 40,877	$ 36,311

See the Related Party Expenses, Other Expenses and Expenses from Real Estate Owned discussions below for the cause of the increase in operating expenses for the year ended December 31, 2021 compared to the year ended December 31, 2020.

Related Party Expenses

For the year ended December 31, 2021, related party expenses included $12.1 million in management and incentive fees due to our Manager pursuant to the Management Agreement, which consisted of $9.4 million in management fees and $2.8 million in incentive fees. For the year ended December 31, 2021, related party expenses also included $3.0 million for our share of allocable general and administrative expenses for which we were required to reimburse our Manager pursuant to the Management Agreement. For the year ended December 31, 2020, related party expenses included $8.2 million in management and incentive fees due to our Manager pursuant to the Management Agreement, which consisted of $7.3 million in management fees and $0.8 million in incentive fees. For the year ended December 31, 2020, related party expenses also included $3.7 million for our share of allocable general and administrative expenses for which we were required to reimburse our Manager pursuant to the Management Agreement. The increase in management fees for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to an increase in our weighted average stockholders' equity for the year ended December 31, 2021 as a result of the public offering of 7,000,000 shares of our common stock in March 2021, which generated net proceeds of approximately $100.7 million, and the public offering of 6,500,000 shares of our common stock in June 2021, which generated net proceeds of approximately $101.6 million. The increase in incentive fees for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to our Core Earnings for the twelve months ended December 31, 2021 exceeding the 8% minimum return by a higher margin than the twelve months ended December 31, 2020. "Core Earnings" is defined in the Management Agreement as GAAP net income (loss) computed in accordance with GAAP, excluding non-cash equity compensation expense, the incentive fee, depreciation and amortization (to the extent that any of our target investments are structured as debt and we foreclose on any properties underlying such debt), any unrealized gains, losses or other non-cash items recorded in net income (loss) for the period, regardless of whether such items are included in other comprehensive income or loss, or in net income (loss), and one-time events pursuant to changes in GAAP and certain non-cash charges after discussions between our Manager and our independent directors and after approval by a majority of our independent directors. The decrease in allocable general and administrative expenses due to our Manager for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to a decrease in the percentage of time allocated to us by employees of our Manager due to changes in transaction activity year over year.

Other Expenses

For the years ended December 31, 2021 and 2020, professional fees were $2.4 million and $2.6 million, respectively. The decrease in professional fees for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to a decrease in our use of third-party professionals due to changes in transaction activity year over year. For the years ended December 31, 2021 and 2020, general and administrative expenses were $4.7 million and $3.7 million, respectively. The increase in general and administrative expenses for the year ended December 31, 2021 compared to the year ended December 31, 2020 primarily relates to an increase in stock-based compensation expense due to new restricted stock and restricted stock unit grants awarded after December 31, 2020.

Expenses From Real Estate Owned

For the years ended December 31, 2021 and 2020, expenses from real estate owned was comprised of the following ($ in thousands):

	For the years ended December 31,	
	2021	2020
Hotel operating expenses	$ 16,058	$ 15,567
Interest expense on note payable	1,665	1,668
Depreciation expense	825	892
Expenses from real estate owned	$ 18,548	$ 18,127

For the years ended December 31, 2021 and 2020, hotel operating expenses were $16.1 million and $15.6 million, respectively. Hotel operating expenses consist primarily of expenses incurred in the day-to-day operation of our hotel property, including room expense, food and beverage expense and other operating expenses. Room expense includes housekeeping and front office wages and payroll taxes, reservation systems, room supplies, laundry services and other costs. Food and beverage expense primarily includes the cost of food, the cost of beverages and associated labor costs. Other operating expenses include labor and other costs associated with administrative departments, sales and marketing, repairs and maintenance, real estate taxes, insurance, utility costs and management and incentive fees paid to the hotel property manager. The increase in hotel operating expenses for the year ended December 31, 2021 compared to the year ended December 31, 2020 is primarily due to the ongoing recovery from the impact of the COVID-19 pandemic as occupancy and overall expenses at the hotel property increased for the year ended December 31, 2021. Hotel operating expenses for the year ended December 31, 2020 were significantly impacted by the COVID-19 pandemic, which significantly reduced occupancy and forced us to implement plans to reduce overall operating expenses at the hotel property. For both the years ended December 31, 2021 and 2020, interest expense on our note payable was $1.7 million. For the years ended December 31, 2021 and 2020, depreciation expense was $0.8 million and $0.9 million, respectively.

Provision for Current Expected Credit Losses

For the years ended December 31, 2021 and 2020, the provision for current expected credit losses was $10 thousand and $20.2 million, respectively. The decrease in the provision for current expected credit losses for the year ended December 31, 2021 compared to the year ended December 31, 2020 is primarily due to forecasted improvement in macroeconomic factors, shorter average remaining loan term and loan payoffs, partially offset by growth in the loan portfolio and other changes to the loan portfolio during the year ended December 31, 2021.

The CECL Reserve takes into consideration our estimates relating to the macroeconomic impact of the COVID-19 pandemic on CRE properties and is not specific to any loan losses or impairments on our loans held for investment. Additionally, the CECL Reserve is not an indicator of what we expect our CECL Reserve would have been absent the current and potential future impacts of the COVID-19 pandemic.

Realized Losses on Loans Sold

In July 2020, we closed the sale of a senior mortgage loan with outstanding principal of $31.5 million, which was collateralized by a hotel property located in Minnesota, to a third party. In addition, in August 2020, we closed the sale of two senior mortgage loans to a third party with outstanding principal of $39.9 million and $29.6 million, respectively, which were collateralized by multifamily properties located in Illinois and Texas, respectively. For the year ended December 31, 2020, we recognized an aggregate net realized loss of $4.0 million in our consolidated statements of operations upon the sale of the three senior mortgage loans as the carrying value exceeded the sale prices of the loans.

For the years ended December 31, 2020 and 2019

The comparison of the fiscal years ended December 31, 2020 and 2019 can be found in our annual report on Form 10-K for the fiscal year ended December 31, 2020 located within Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, which is incorporated by reference herein.

LIQUIDITY AND CAPITAL RESOURCES

Liquidity is a measure of our ability to meet potential cash requirements, including ongoing commitments to repay borrowings, fund and maintain our assets and operations, make distributions to our stockholders and other general business needs. We use significant cash to purchase our target investments, make principal and interest payments on our borrowings, make distributions to our stockholders and fund our operations.

Our primary sources of cash generally consist of unused borrowing capacity under our Secured Funding Agreements, the net proceeds of future equity offerings, payments of principal and interest we receive on our portfolio of assets and cash generated from our operating activities. Principal repayments from mortgage loans in securitizations where we retain the subordinate securities are applied sequentially, first used to pay down the senior notes, and accordingly, we will not receive any proceeds from repayment of loans in the securitizations until all senior notes are repaid in full.

We expect our primary sources of cash to continue to be sufficient to fund our operating activities and cash commitments for investing and financing activities for at least the next 12 months and thereafter for the foreseeable future. Due to the impact of the COVID-19 pandemic, in 2020 and to a lesser extent in 2021, we experienced borrowers unable to pay interest and principal payments timely, including at the maturity date of the borrower’s loan. Our Secured Funding Agreements contains margin call provisions following the occurrence of certain mortgage loan credit events. If we are unable to make the required payment or if we fail to meet or satisfy any of the covenants in our Financing Agreements, we would be in default under these agreements, and our lenders could elect to declare outstanding amounts due and payable, terminate their commitments, require the posting of additional collateral, including cash to satisfy margin calls, and enforce their interests against existing collateral. We are also subject to cross-default and acceleration rights with respect to our Financing Agreements. Given the impact of the COVID-19 pandemic on the real estate industry and the potential impact on our borrowers, to mitigate the risk of future margin calls we proactively engaged in discussions with certain of our lenders in 2020 and to a lesser extent in 2021 to modify the terms of our borrowings on certain assets within these facilities, in order to, among other things, reduce the amounts we are borrowing against such assets and/or increase the borrowing spreads. As a result of the ongoing risks of COVID-19, there is no guarantee that borrowers will be able to pay interest and principal payments timely. We may not receive financing from our Secured Funding Agreements with respect to our commitments to fund our loans held for investment in the future. See “Summary of Financing Agreements” below for a description of our Financing Agreements.

Subject to maintaining our qualification as a REIT and our exemption from registration under the 1940 Act, we expect that our primary sources of enhancing our liquidity will be financing, to the extent available to us, through credit, secured funding and other lending facilities, other sources of private financing, including warehouse and repurchase facilities, and public or private offerings of our equity or debt securities. On July 19, 2019, we filed a registration statement on Form S-3 with the SEC, which became effective on August 2, 2019, in order to permit us to offer, from time to time, in one or more offerings or series of offerings up to $1.25 billion of our common stock, preferred stock, debt securities, subscription rights to purchase shares of our common stock, warrants representing rights to purchase shares of our common stock, preferred stock or debt securities, or units. The specifics of any future offerings, along with the use of proceeds of any securities offered, will be described in detail in a prospectus supplement, or other offering materials, at the time of any offering. We also have and may continue to access liquidity through our “At the Market Stock Offering Program” which was established in November 2019 pursuant to which we may sell, from time to time, up to $100.0 million of shares of our common stock. Furthermore, we have sold, and may continue to sell certain of our mortgage loans, or interests therein, in order to manage liquidity needs. Subject to maintaining our qualification as a REIT, we may also change our dividend practice, including by reducing the amount of, or temporarily suspending, our future dividends or making dividends that are payable in cash and shares of our common stock for some period of time. We are also able to access additional liquidity through the (i) reinvestment provisions in our FL3 CLO Securitization, which allows us to replace mortgage assets in our FL3 CLO Securitization which have repaid and (ii) future funding acquisition provisions in our CLO Securitizations, which allows us to use mortgage asset repayment funds to acquire additional funded pari-passu participations related to the mortgage assets then-remaining in our FL4 CLO Securitization; each subject to the satisfaction of certain reinvestment or acquisition conditions, which may include receipt of a Rating Agency Confirmation and investor approval. There can be no assurance that the conditions for reinvestment or acquisition will be satisfied and whether our CLO Securitizations will acquire any additional mortgage assets or funded pari-passu participations. In addition, our CLO Securitizations contain certain senior note overcollateralization ratio tests. To the extent we fail to meet these tests, amounts that would otherwise be used to make payments on the subordinate securities that we hold will be used to repay principal on the more senior securities to the extent necessary to satisfy any senior note overcollateralization ratio and we may incur significant losses. Our sources of liquidity may be impacted to the extent we do not receive cash payments that we would otherwise expect to receive from the CLO Securitizations if these tests were met.

Ares Management or one of its investment vehicles, including the Ares Warehouse Vehicle, may originate mortgage loans. We have had and may continue to have the opportunity to purchase such loans that are determined by our Manager in

good faith to be appropriate for us, depending on our available liquidity. Ares Management or one of its investment vehicles may also acquire mortgage loans from us.

As of February 14, 2022, we had approximately $189 million in liquidity including $114 million of unrestricted cash and $75 million of availability under secured funding agreements.

At the Market Stock Offering Program

On November 22, 2019, we entered into an equity distribution agreement (the "Equity Distribution Agreement"), pursuant to which we may offer and sell, from time to time, shares of our common stock, par value $0.01 per share, having an aggregate offering price of up to $100.0 million. Subject to the terms and conditions of the Equity Distribution Agreement, sales of common stock, if any, may be made in transactions that are deemed to be an "at the market offering" as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended. During the year ended December 31, 2021, we sold an aggregate of 137,237 shares of our common stock under the Equity Distribution Agreement at an average price of $15.68 per share. The sales generated net proceeds of approximately $2.1 million.

Equity Offerings

On March 15, 2021, we entered into the March 2021 Underwriting Agreement, by and among us, ACREM, and Wells Fargo Securities, LLC, BofA Securities, Inc. and Morgan Stanley & Co. LLC, as representatives of the several underwriters listed therein (collectively, the "March 2021 Underwriters"). Pursuant to the terms of the March 2021 Underwriting Agreement, we agreed to sell, and the March 2021 Underwriters agreed to purchase, subject to the terms and conditions set forth in the March 2021 Underwriting Agreement, an aggregate of 7,000,000 shares of our common stock, par value $0.01 per share. The public offering closed on March 18, 2021 and generated net proceeds of approximately $100.7 million, after deducting transaction expenses. We used the net proceeds from the public offering to repay indebtedness and to invest in mortgage loans and other target assets and investments consistent with our investment strategies and investment guidelines.

On June 17, 2021, we entered into the June 2021 Underwriting Agreement, by and among us, ACREM, and Wells Fargo Securities, LLC, BofA Securities, Inc. and Morgan Stanley & Co. LLC, as representatives of the several underwriters listed therein (collectively, the "June 2021 Underwriters"). Pursuant to the terms of the June 2021 Underwriting Agreement, we agreed to sell, and the June 2021 Underwriters agreed to purchase, subject to the terms and conditions set forth in the June 2021 Underwriting Agreement, an aggregate of 6,500,000 shares of the Company's common stock, par value $0.01 per share. The public offering closed on June 22, 2021 and generated net proceeds of approximately $101.6 million, after deducting transaction expenses. We used the net proceeds from the public offering to repay indebtedness and to invest in mortgage loans and other target assets and investments consistent with our investment strategies and investment guidelines.

Cash Flows

The following table sets forth changes in cash and cash equivalents for the years ended December 31, 2021 and 2020 ($ in thousands):

	For the years ended December 31,	
	2021	**2020**
Net income	$ 60,460	$ 21,840
Adjustments to reconcile net income to net cash provided by (used in) operating activities:	(12,110)	9,922
Net cash provided by (used in) operating activities	48,350	31,762
Net cash provided by (used in) investing activities	(699,685)	(81,867)
Net cash provided by (used in) financing activities	627,174	119,246
Change in cash and cash equivalents	$ (24,161)	$ 69,141

During the years ended December 31, 2021 and 2020, cash and cash equivalents increased (decreased) by $(24.2) million and $69.1 million, respectively.

Operating Activities

For the years ended December 31, 2021 and 2020, net cash provided by operating activities totaled $48.4 million and $31.8 million, respectively. For the year ended December 31, 2021, adjustments to net income related to operating activities

primarily included the provision for current expected credit losses of $10 thousand, accretion of deferred loan origination fees and costs of $8.4 million, amortization of deferred financing costs of $9.9 million and change in other assets of $18.5 million. For the year ended December 31, 2020, adjustments to net income related to operating activities primarily included the provision for current expected credit losses of $20.2 million, accretion of deferred loan origination fees and costs of $7.4 million, amortization of deferred financing costs of $6.4 million and change in other assets of $15.3 million.

Investing Activities

For the years ended December 31, 2021 and 2020, net cash used in investing activities totaled $699.7 million and $81.9 million, respectively. This change in net cash used in investing activities was primarily as a result of the cash used for the origination and funding of loans held for investment exceeding the cash received from principal repayment of loans held for investment for the year ended December 31, 2021.

Financing Activities

For the year ended December 31, 2021, net cash provided by financing activities totaled $627.2 million and primarily related to proceeds from our Secured Funding Agreements of $970.0 million, proceeds from our Secured Term Loan of $90.0 million, proceeds from the issuance of debt of consolidated VIEs of $540.5 million and proceeds from the sale of our common stock of $204.8 million, partially offset by repayments of our Secured Funding Agreements of $885.5 million, repayments of our Notes Payable of $27.9 million, repayments of our Secured Term Loan of $50.0 million, repayments of our Secured Borrowings of $37.5 million, repayments of debt of consolidated VIEs of $121.2 million and dividends paid of $58.4 million. For the year ended December 31, 2020, net cash provided by financing activities totaled $119.2 million and primarily related to proceeds from our Secured Funding Agreements of $473.5 million, proceeds from Secured Borrowings of $60.2 million and proceeds from the sale of our common stock of $73.2 million, partially offset by repayments of our Secured Funding Agreements of $446.5 million and dividends paid of $42.8 million.

For the years ended December 31, 2020 and 2019

The comparison of the fiscal years ended December 31, 2020 and 2019 can be found in our annual report on Form 10-K for the fiscal year ended December 31, 2020 located within Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, which is incorporated by reference herein.

Summary of Financing Agreements

The sources of financing, as applicable in a given period, under our Secured Funding Agreements, Notes Payable and the Secured Term Loan (collectively, the "Financing Agreements") are described in the following table ($ in thousands):

	As of							
	December 31, 2021				December 31, 2020			
	Total Commitment	Outstanding Balance	Interest Rate	Maturity Date	Total Commitment	Outstanding Balance	Interest Rate	Maturity Date
Secured Funding Agreements:								
Wells Fargo Facility	$ 450,000	$ 399,528	LIBOR+1.50 to 2.75%	December 14, 2022 (1)	$ 350,000	$ 336,001	LIBOR+1.45 to 2.75%	December 14, 2022 (1)
Citibank Facility	325,000	192,970	LIBOR+1.50 to 2.25%	January 13, 2022 (2)	325,000	117,506	LIBOR+1.50 to 2.25%	December 13, 2021 (2)
CNB Facility	75,000	—	SOFR+2.65%	March 10, 2022 (3)	50,000	50,000	LIBOR+2.65%	March 10, 2021 (3)
MetLife Facility	180,000	20,648	LIBOR+2.10 to 2.50%	August 13, 2022 (4)	180,000	104,124	LIBOR+2.10 to 2.50%	August 13, 2022 (4)
Morgan Stanley Facility	250,000	226,901	LIBOR+1.50 to 3.00%	January 16, 2023 (5)	150,000	147,921	LIBOR+1.75 to 2.85%	January 16, 2023 (5)
Subtotal	$ 1,280,000	$ 840,047			$ 1,055,000	$ 755,552		
Notes Payable	$ 51,755	$ 51,110	LIBOR+3.00 to 3.75%	(6)	$ 84,155	$ 63,122	LIBOR+2.50 to 3.75%	(6)
Secured Term Loan	$ 150,000	$ 150,000	4.50%	November 12, 2026 (7)	$ 110,000	$ 110,000	LIBOR+5.00%	December 22, 2021 (7)
Total	$ 1,481,755	$ 1,041,157			$ 1,249,155	$ 928,674		

____

(1) The maturity date of the master repurchase funding facility with Wells Fargo Bank, National Association (the “Wells Fargo Facility”) is subject to three 12-month extensions at our option provided that certain conditions are met and applicable extension fees are paid. The maximum commitment may be increased to up to $500.0 million at our option, subject to the satisfaction of certain conditions, including payment of an upsize fee. In December 2021, we elected to increase the maximum commitment for the Wells Fargo Facility from $350.0 million to $450.0 million.

(2) The maturity date of the master repurchase facility with Citibank, N.A. (the “Citibank Facility”) is subject to two 12-month extensions at our option provided that certain conditions are met and applicable extension fees are paid. In November 2021, we amended the Citibank Facility to extend the initial maturity date to January 13, 2022. See Note 17 to our consolidated financial statements included in this annual report on Form 10-K for a subsequent event related to the Citibank Facility.

(3) In March 2021, we exercised a 12-month extension option on the secured revolving funding facility with City National Bank (the “CNB Facility”). In November 2021, we amended the CNB Facility to, among other things, (1) increase the commitment amount from $50.0 million to $75.0 million and (2) update the interest rate on advances under the CNB Facility to a per annum rate equal to the sum of, at the Company’s option, either (a) Daily Simple SOFR (with a 0.35% floor) plus 2.65% or (b) a base rate (which is the highest of a prime rate, the federal funds rate plus 0.50%, or Daily Simple SOFR plus 1.00%) plus 1.00%; provided that in no event shall the interest rate be less than 2.65%.

(4) The maturity date of the revolving master repurchase facility with Metropolitan Life Insurance Company (the “MetLife Facility”) is subject to two 12-month extensions at our option provided that certain conditions are met and applicable extension fees are paid.

(5) The maturity date of the master repurchase and securities contract with Morgan Stanley (the “Morgan Stanley Facility”) is subject to two 12-month extensions at our option provided that certain conditions are met and applicable extension fees are paid. The Morgan Stanley Facility has an accordion feature that provides for a $100.0 million permanent increase in the commitment amount from $150.0 million to $250.0 million, which may be exercised at our option, subject to the satisfaction of certain conditions, including payment of an upsized commitment fee. In June 2021, we exercised the option to increase the commitment amount from $150.0 million to $250.0 million.

(6) Certain of our consolidated subsidiaries are party to two separate note agreements (the “Notes Payable”) with the lenders referred to therein, consisting of (1) a $28.3 million note that has a maturity date of June 10, 2024 and (2) a $23.5 million note that has an initial maturity date of September 5, 2022, subject to two 12-month extensions at our option provided that certain conditions are met and applicable extension fees are paid. In March 2021, the $32.4 million note, which was secured by a $40.5 million senior mortgage loan held by us on an industrial property located in North Carolina, was repaid in full and not extended. The outstanding principal on the note at the time of repayment was $27.9 million.

(7) In December 2020, we exercised the 12-month extension option on the Credit and Guaranty Agreement with the lenders referred to therein and Cortland Capital Market Services LLC, as administrative agent and collateral agent for the lenders (the “Secured Term Loan”). During the extension period, the spread on advances under the Secured Term Loan increased every three months by 0.125%, 0.375% and 0.750% per annum, respectively, beginning after the third-month of the extension period. In March 2021, we voluntarily elected to repay $50.0 million of outstanding principal at par on the Secured Term Loan prior to the scheduled maturity as permitted by the contractual terms of the Secured Term Loan. In November 2021, we amended the Secured Term Loan to, among other things, (1) increase the commitment amount to $150.0 million, (2) extend the maturity date of the Secured Term Loan to November 12, 2026 and (3) update the interest rate on advances under the Secured Term Loan to the following fixed rates: (i) 4.50% per annum until May 12, 2025, (ii) after May 12, 2025 through November 12, 2025, the interest rate increases 0.125% every three months and (iii) after November 12, 2025 through November 12, 2026, the interest rate increases 0.250% every three months.

Our Financing Agreements contain various affirmative and negative covenants, including negative pledges, and provisions related to events of default that are normal and customary for similar financing agreements. As of December 31, 2021, we were in compliance with all financial covenants of each respective Financing Agreement. We may be required to fund commitments on our loans held for investment in the future and we may not receive funding from our Secured Funding Agreements with respect to these commitments. See Note 6 to our consolidated financial statements included in this annual report on Form 10-K for more information on our Financing Agreements.

Securitizations

As of December 31, 2021, the carrying amount and outstanding principal of our CLO Securitizations was $861.2 million and $864.8 million, respectively. See Note 16 to our consolidated financial statements included in this annual report on Form 10-K for additional terms and details of our CLO Securitizations.

Secured Borrowings

As of December 31, 2021, the carrying amount and outstanding principal of our secured borrowings was $22.6 million and $22.7 million, respectively. See Note 7 to our consolidated financial statements included in this annual report on Form 10-K for additional terms and details of our secured borrowings.

Leverage Policies

We intend to use prudent amounts of leverage to increase potential returns to our stockholders. To that end, subject to maintaining our qualification as a REIT and our exemption from registration under the 1940 Act, we intend to continue to use borrowings to fund the origination or acquisition of our target investments. Given current market conditions and our focus on first or senior mortgages, we currently expect that such leverage would not exceed, on a debt-to-equity basis, a 4.5-to-1 ratio. Our charter and bylaws do not restrict the amount of leverage that we may use. The amount of leverage we will deploy for particular investments in our target investments will depend upon our Manager's assessment of a variety of factors, which may include, among others, our liquidity position, the anticipated liquidity and price volatility of the assets in our loans held for investment portfolio, the potential for losses and extension risk in our portfolio, the gap between the duration of our assets and liabilities, including hedges, the availability and cost of financing the assets, our opinion of the creditworthiness of our financing counterparties, the impact of the COVID-19 pandemic on the United States economy generally or in specific geographic regions and commercial mortgage markets, our outlook for the level and volatility of interest rates, the slope of the yield curve, the credit quality of our assets, the collateral underlying our assets, and our outlook for asset spreads relative to the LIBOR curve.

CONTRACTUAL OBLIGATIONS AND COMMITMENTS

Our contractual obligations as of December 31, 2021 are described in the following table ($ in thousands):

	Total	Less than 1 year	1 to 3 years	3 to 5 years	More than 5 years
Wells Fargo Facility	$ 399,528	$ 399,528	$ —	$ —	$ —
Citibank Facility	192,970	192,970	—	—	—
CNB Facility	—	—	—	—	—
MetLife Facility	20,648	20,648	—	—	—
Morgan Stanley Facility	226,901	—	226,901	—	—
Notes Payable	51,110	22,835	28,275	—	—
Secured Term Loan	150,000	—	—	150,000	—
Future Loan Funding Commitments	233,741	48,798	165,517	19,426	—
Total	$ 1,274,898	$ 684,779	$ 420,693	$ 169,426	$ —

The table above does not include the related interest expense under the Secured Funding Agreements, Notes Payable and the Secured Term Loan, as all our interest is variable. Additionally, the table above does not include extension options, as applicable, under the Secured Funding Agreements, Notes Payable and the Secured Term Loan.

We may enter into certain contracts that may contain a variety of indemnification obligations, principally with underwriters and counterparties to repurchase agreements. The maximum potential future payment amount we could be required to pay under these indemnification obligations may be unlimited.

Other than as set forth in this annual report on Form 10-K, we do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured investment vehicles, special purpose entities or variable interest entities, established to facilitate off-balance sheet arrangements or other contractually narrow or limited purposes. Further, we have not guaranteed any obligations of unconsolidated entities or entered into any commitment or intend to provide additional funding to any such entities.

Management Agreement

We are also required to pay our Manager a base management fee of 1.5% of our stockholders' equity per year, an incentive fee and expense reimbursements pursuant to our Management Agreement. The table above does not include the amounts payable to our Manager under our Management Agreement as they are not fixed and determinable. See Note 14 to our

consolidated financial statements included in this annual report on Form 10-K for additional terms and details of the fees payable under our Management Agreement.

DIVIDENDS

We elected to be taxed as a REIT for United States federal income tax purposes and, as such, anticipate annually distributing to our stockholders at least 90% of our REIT taxable income, prior to the deduction for dividends paid. If we distribute less than 100% of our REIT taxable income in any tax year (taking into account any distributions made in a subsequent tax year under Sections 857(b)(9) or 858 of the Code), we will pay tax at regular corporate rates on that undistributed portion. Furthermore, if we distribute less than the sum of 1) 85% of our ordinary income for the calendar year, 2) 95% of our capital gain net income for the calendar year and 3) any undistributed shortfall from our prior calendar year (the “Required Distribution”) to our stockholders during any calendar year (including any distributions declared by the last day of the calendar year but paid in the subsequent year), then we are required to pay non-deductible excise tax equal to 4% of any shortfall between the Required Distribution and the amount that was actually distributed. Any of these taxes would decrease cash available for distribution to our stockholders. The 90% distribution requirement does not require the distribution of net capital gains. However, if we elect to retain any of our net capital gain for any tax year, we must notify our stockholders and pay tax at regular corporate rates on the retained net capital gain. The stockholders must include their proportionate share of the retained net capital gain in their taxable income for the tax year, and they are deemed to have paid the REIT’s tax on their proportionate share of the retained capital gain. Furthermore, such retained capital gain may be subject to the nondeductible 4% excise tax. If we determine that our estimated current year taxable income (including net capital gain) will be in excess of estimated dividend distributions (including capital gains dividends) for the current year from such income, we accrue excise tax on a portion of the estimated excess taxable income as such taxable income is earned.

Before we make any distributions, whether for United States federal income tax purposes or otherwise, we must first meet both our operating requirements and debt service on our Financing Agreements and other debt payable. If our cash available for distribution is less than our REIT taxable income, we could be required to sell assets or borrow funds to make cash distributions or we may make a portion of the Required Distribution in the form of a taxable stock distribution or distribution of debt securities.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

As part of our risk management strategy, our Manager closely monitors our portfolio and actively manages the credit, interest rate, market, prepayment, real estate inflation and financing risks associated with holding a portfolio of our target investments. We manage our portfolio through an interactive process with our Manager and Ares Management. Our Manager has an Investment Committee that oversees compliance with our investment strategy and guidelines, loans held for investment portfolio holdings and financing strategy. We seek to manage our risks related to the credit quality of our assets, interest rates, liquidity, prepayment speeds and market value while, at the same time, seeking to provide an opportunity to stockholders to realize attractive risk-adjusted returns through ownership of our capital stock. While we do not seek to avoid risk completely, we believe the risks can be quantified from historical experience and seek to actively manage those risks, to earn sufficient compensation to justify taking those risks and to maintain capital levels consistent with the risks we undertake.

Credit Risk

We are subject to varying degrees of credit risk in connection with holding our target investments. We have exposure to credit risk on our CRE loans and other target investments in our business. Our Manager seeks to manage credit risk by performing our due diligence process prior to origination or acquisition and through the use of non-recourse financing, when and where available and appropriate. Credit risk is also addressed through our Manager’s ongoing review of our loans held for investment portfolio. In addition, with respect to any particular target investment, our Manager’s investment team evaluates, among other things, relative valuation, comparable analysis, supply and demand trends, shape of yield curves, delinquency and default rates, recovery of various sectors and vintage of collateral.

In this current environment, prepayments may slow down, borrowers may not be able to repay principal upon the loan maturity or qualify for loan extensions. Additionally, if tenants are not able to pay rent to their landlords, property owners may not be able to make payments to their lenders. We have been in regular dialogue with our borrowers and our financing providers to assess this credit risk. See Note 3 to our consolidated financial statements included in this annual report on Form 10-K for a more detailed description of the potential impacts of the COVID-19 pandemic on our loan investments.

Interest Rate Risk

Interest rates are highly sensitive to many factors, including fiscal and monetary policies and domestic and international economic and political considerations, as well as other factors beyond our control. We are subject to interest rate risk in connection with our assets and our related financing obligations, including our borrowings under the Financing Agreements. We primarily originate or acquire floating rate mortgage assets and finance those assets with index-matched floating rate liabilities. As a result, we significantly reduce our exposure to changes in portfolio value and cash flow variability related to changes in interest rates. However, we regularly measure our exposure to interest rate risk and assess interest rate risk and manage our interest rate exposure on an ongoing basis by comparing our interest rate sensitive assets to our interest rate sensitive liabilities. Based on that review, we determine whether or not we should enter into hedging transactions and derivative financial instruments, such as forward sale commitments and interest rate floors in order to mitigate our exposure to changes in interest rates.

While hedging activities may mitigate our exposure to adverse fluctuations in interest rates, certain hedging transactions that we have entered into or may enter into in the future, such as interest rate swap agreements, may also limit our ability to participate in the benefits of lower interest rates with respect to our investments. In addition, there can be no assurance that we will be able to effectively hedge our interest rate risk.

In addition to the risks related to fluctuations in asset values and cash flows associated with movements in interest rates, there is also the risk of non-performance on floating rate assets. In the case of a significant increase in interest rates, the additional debt service payments due from our borrowers may strain the operating cash flows of the real estate assets underlying our mortgages and, potentially, contribute to non-performance or, in severe cases, default.

Interest Rate Effect on Net Income

Our operating results depend in large part on differences between the income earned on our assets and our cost of borrowing. The cost of our borrowings generally is based on prevailing market interest rates. During a period of rising interest rates, our borrowing costs generally increase while the yields earned on our leveraged fixed-rate mortgage assets remain static, which could result in a decline in our net interest spread and net interest margin. During a period of declining interest rates, our borrowing costs generally decrease while the yields earned on our leveraged fixed-rate mortgage assets remain static, which could result in an increase in our net interest spread and net interest margin. The impact of rising or declining interest rates may be mitigated by certain hedging transactions that we have entered into or may enter into in the future.

The following table estimates the hypothetical increases/(decreases) in net income for a twelve month period, assuming (1) an immediate increase or decrease in 30-day LIBOR as of December 31, 2021, (2) no change in the outstanding principal balance of our loans held for investment portfolio and borrowings as of December 31, 2021 and (3) no changes in the notional amount of the interest rate swap and interest rate cap agreements entered into as of December 31, 2021 ($ in millions):

Change in 30-Day LIBOR	Increase/(Decrease) in Net Income
Up 100 basis points	$1.8
Up 50 basis points	$0.2
LIBOR at 0 basis points	$0.7

The severity of any such impact depends on our asset/liability composition at the time as well as the magnitude and duration of the interest rate increase and any applicable floors and caps. Further, an increase in short-term interest rates could also have a negative impact on the market value of our target investments. If any of these events happen, we could experience a decrease in net income or incur a net loss during these periods, which could adversely affect our liquidity and results of operations.

Interest Rate Cap and Floor Risk

We primarily originate or acquire floating rate mortgage assets. These are assets in which the mortgages may be subject to periodic and lifetime interest rate caps and floors, which limit the amount by which the asset's interest yield changes during any given period. However, our borrowing costs pursuant to our Financing Agreements sometimes are not subject to similar restrictions or have different floors and caps. As a result, in a period of increasing interest rates, interest rate costs on our borrowings could increase without limitation by caps, while the interest rate yields on our floating rate mortgage assets could be limited if we do not implement effective caps. In addition, floating rate mortgage assets may be subject to periodic payment caps that result in some portion of the interest being deferred and added to the principal outstanding. This could result in our

receipt of less cash income on such assets than we would need to pay the interest cost on our related borrowings. In addition, in a period of decreasing interest rates, the interest rate yields on our floating rate mortgage assets could decrease, while the interest rate costs on certain of our borrowings could be fixed at a higher floor. These factors could lower our net interest income or cause a net loss during periods of decreasing interest rates, which would harm our financial condition, cash flows and results of operations. The impact of rising or declining interest rates may be mitigated by certain hedging transactions that we have entered into or may enter into in the future.

Market Risk

The estimated fair values of our investments fluctuate primarily due to changes in interest rates, changes in credit and other factors. Generally, in a rising interest rate environment, the estimated fair value of the fixed-rate securities would be expected to decrease; conversely, in a decreasing interest rate environment, the estimated fair value of the fixed-rate securities would be expected to increase. As market volatility increases or liquidity decreases, the fair value of our investments may be adversely impacted.

Prepayment and Securitizations Repayment Risk

Our net income and earnings may be affected by prepayment rates on our existing CRE loans. When we originate our CRE loans, we anticipate that we will generate an expected yield. When borrowers prepay their CRE loans faster than we expect, we may be unable to replace these CRE loans with new CRE loans that will generate yields which are as high as the prepaid CRE loans. If prepayment rates decrease in a rising interest rate environment, borrowers exercise extension options on CRE loans or we extend the term of CRE loans, the life of the loans could extend beyond the term of the Financing Agreements that we borrow on to fund our CRE loans. This could have a negative impact on our results of operations. In some situations, we may be forced to fund additional cash collateral in connection with the Financing Agreements or sell assets to maintain adequate liquidity, which could cause us to incur losses. Additionally, principal repayment proceeds from mortgage loans in the CLO Securitizations are applied sequentially, first used to pay down the senior notes in the CLO Securitizations. We will not receive any proceeds from the repayment of loans in the CLO Securitizations until all senior notes are repaid in full.

Financing Risk

We borrow funds under our Financing Agreements to finance our target assets. The COVID-19 pandemic has resulted in extreme volatility in a variety of global markets, including the real estate-related debt markets. In reaction to market conditions, banks and other lenders have generally restricted lending activity and, in some cases, have requested margin posting or repayments where applicable for secured loans collateralized by assets with depressed valuations. Our Secured Funding Agreements contain margin call provisions following the occurrence of certain mortgage loan credit events. If we are unable to make the required payment or if we fail to meet or satisfy any of the covenants in our Financing Agreements, we would be in default under these agreements, and our lenders could elect to declare outstanding amounts due and payable, terminate their commitments, require the posting of additional collateral, including cash to satisfy margin calls, and enforce their interests against existing collateral. We are also subject to cross-default and acceleration rights with respect to our Financing Agreements. Given the impact of the COVID-19 pandemic on the real estate industry and the potential impact on our borrowers, to mitigate the risk of future margin calls, we proactively engaged in discussions with certain of our lenders in 2020 and to a lesser extent in 2021 to modify the terms of our borrowings on certain assets within these facilities, including reducing the amounts we are borrowing against such assets and/or increasing the borrowing spreads. In addition, our CLO Securitizations contain certain senior note overcollateralization ratio tests. To the extent we fail to meet these tests, amounts that would otherwise be used to make payments on the subordinate securities that we hold will be used to repay principal on the more senior securities to the extent necessary to satisfy any senior note overcollateralization ratio and we may incur significant losses. Our sources of liquidity may be impacted to the extent we do not receive cash payments that we would otherwise expect to receive from the CLO Securitizations if these tests were met. Weakness or volatility in the financial markets, the commercial real estate and mortgage markets and the economy generally could adversely affect one or more of our potential lenders and could cause one or more of our potential lenders to be unwilling or unable to provide us with financing or to increase the costs of that financing.

Real Estate Risk

Our real estate investments are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, national, regional and local economic conditions (which may be adversely affected by industry slowdowns and other factors); local real estate conditions; changes or continued weakness in specific industry segments; local markets with a significant exposure to the energy sector; construction quality, age and design; demographic factors; and retroactive changes to building or similar codes. The COVID-19 pandemic is having a particularly adverse impact on industries whose properties

serve as collateral for some of our portfolio of loan investments. Decreases in property values reduce the value of the collateral and the potential proceeds available to a borrower to repay the underlying loan or loans, as the case may be, which could also cause us to suffer losses. We seek to manage these risks through our underwriting and asset management processes.

Inflation Risk

Virtually all of our assets and liabilities are sensitive to interest rates. As a result, interest rates and other factors influence our performance far more so than does inflation. Changes in interest rates do not necessarily correlate with inflation rates or changes in inflation rates but adverse changes in inflation or changes in inflation expectations can lead to lower returns on our investments than originally anticipated. In each case, in general, our activities and balance sheet are measured with reference to historical cost and/or fair market value without considering inflation.

Item 8. Financial Statements and Supplementary Data

See the Index to Consolidated Financial Statements included in this annual report on Form 10-K.

Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

(a) *Evaluation of Disclosure Controls and Procedures.* We maintain disclosure controls and procedures (as that term is defined in Rules 13a‑15(e) and 15d‑15(e) under the Exchange Act) that are designed to ensure that information required to be disclosed in our reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. Our management, with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2021. Based upon that evaluation and subject to the foregoing, our principal executive officer and principal financial officer concluded that, as of December 31, 2021, the design and operation of our disclosure controls and procedures were effective to accomplish their objectives at the reasonable assurance level.

(b) *Management’s Report on Internal Control over Financial Reporting.* Our management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of our financial reporting for external purposes in accordance with accounting principles generally accepted in the United States of America. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect our transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of our consolidated financial statements; providing reasonable assurance that receipts and expenditures of company assets are made in accordance with management authorization; and providing reasonable assurance that unauthorized acquisition, use or disposition of company assets that could have a material effect on our consolidated financial statements would be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a material misstatement of our consolidated financial statements would be prevented or detected.

Management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, management concluded that the Company's internal control over financial reporting was effective as of December 31, 2021. The Company's independent registered public accounting firm, Ernst & Young LLP, has issued an audit report on the effectiveness of the Company's internal control over financial reporting.

(c) *Attestation Report of the Registered Public Accounting Firm.* Our independent registered public accounting firm, Ernst & Young LLP, has issued an attestation report on the effectiveness of our internal control over financial reporting which is set forth under the heading “Report of Independent Registered Public Accounting Firm” on page F-2.

(d) *Changes in Internal Control over Financial Reporting.* There have been no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter ended December

31, 2021 that have materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Disclosure Pursuant to Section 219 of the Iran Threat Reduction and Syria Human Rights Act

Section 219 of the Iran Threat Reduction and Syria Human Rights Act of 2012 and Section 13(r) of the Exchange Act, require an issuer to disclose in its annual and quarterly reports whether it or any of its affiliates have knowingly engaged in specified activities or transactions relating to Iran. We are required to include certain disclosures in our periodic reports if we or any of our “affiliates” (as defined in Rule 12b-2 under the Exchange Act) knowingly engaged in certain specified activities, transactions or dealings relating to Iran or with certain individuals or entities targeted by United States' economic sanctions during the period covered by the report. Disclosure is generally required even where the activities, transactions or dealings were conducted in compliance with applicable law. Neither we nor any of our controlled affiliates or subsidiaries knowingly engaged in any of the specified activities relating to Iran or otherwise engaged in any activities associated with Iran during the reporting period. However, because the SEC defines the term “affiliate” broadly, it includes any person or entity that is under common control with us as well as any entity that controls us or is controlled by us. The description that follows has been provided to us by Ares Management.

On January 31, 2019, funds and accounts managed by Ares Management’s European direct lending strategy (together, the “Ares funds”) collectively acquired a 32% equity stake in Daisy Group Limited (“Daisy”). Daisy is a provider of communication services to businesses based in the United Kingdom. The Ares funds do not hold a majority equity interest in Daisy and do not have the right to appoint a majority of directors to Daisy’s board of directors.

Subsequent to completion of the Ares funds’ investment in Daisy, in connection with Ares Management’s routine quarterly survey of its investment funds’ portfolio companies, Daisy informed the Ares funds that it has customer contracts with Melli Bank Plc, Persia International Bank Plc and Bank Saderat Plc. Melli Bank Plc, Persia International Bank Plc and Bank Saderat Plc have been designated by the Office of Foreign Assets Control within the U.S. Department of Treasury pursuant to Executive Order 13324. Daisy generated a total of £84,806 in annual revenues in 2021 (less than 0.02% of Daisy’s annual revenues) from its dealings with Melli Bank Plc, Persia International Bank Plc and Bank Saderat Plc and de minimis net profits. Daisy entered into the customer contracts with Melli Bank Plc, Persia International Bank Plc and Bank Saderat Plc prior to the Ares funds’ investment in Daisy.

Daisy terminated its contract with Bank Saderat Plc on November 24, 2021 and terminated its contract with Persia International Bank Plc on December 31, 2021. Daisy has given notice of termination of its contract with Melli Bank Plc, and such contract is expected to terminate on February 26, 2022. Following termination of the contracts, Daisy has not and does not intend to engage in any further dealings or transactions with Melli Bank Plc, Persia International Bank Plc or Bank Saderat Plc.

Amendments to Secured Funding Agreements

On February 10, 2022, ACRC Lender C, a subsidiary of the Company and the Company, as guarantor, entered into a second amendment to the Second Amended and Restated Substitute Guaranty related to the Citibank Facility (as defined herein). The purpose of the amendment is to, among other things, (i) increase the guarantor’s permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor’s financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender MS, a subsidiary of the Company and the Company, as guarantor, entered into an amendment to the Guaranty and Indemnity related to the Morgan Stanley Facility (as defined herein). The purpose of the amendment is to, among other things, (i) increase the guarantor’s permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor’s financial covenant that limited recourse indebtedness.

On February 10, 2022, the Company, as guarantor, entered into a second amendment to the Guaranty related to the MetLife Facility (as defined herein). The purpose of the amendment is to, among other things, (i) increase the guarantor’s permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor’s financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender W, each a subsidiary of the Company, and the Company, as guarantor, entered into (i) the Third Amended and Restated Master Repurchase and Securities Contract and (ii) the Second Amended and Restated Guarantee, each with Wells Fargo. The purpose of the amendments are to, among other things, (a) modify the interest rate provisions in the Wells Fargo Facility such that financings under the Wells Fargo Facility (as defined herein) in connection with new loans pledged to the Wells Fargo Facility will utilize term SOFR or a SOFR average, as agreed between ACRC Lender W and Wells Fargo, (b) increase the guarantor’s permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (c) remove the guarantor’s financial covenant that limited recourse indebtedness.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item will be contained in the Company's definitive Proxy Statement for its 2022 Annual Stockholder Meeting, to be filed with the SEC within 120 days after December 31, 2021, and is incorporated herein by reference.

Item 11. Executive Compensation

The information required by this item will be contained in the Company's definitive Proxy Statement for its 2022 Annual Stockholder Meeting, to be filed with the SEC within 120 days after December 31, 2021, and is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS

On April 23, 2012, we adopted an equity incentive plan. In April 2018, our board of directors authorized, and in June 2018, our stockholders approved, an amended and restated equity incentive plan (the "Amended and Restated 2012 Equity Incentive Plan"). Pursuant to our Amended and Restated 2012 Equity Incentive Plan, we may grant awards consisting of restricted shares of our common stock, restricted stock units and/or other equity-based awards to our directors, our Manager and its personnel and other eligible awardees under the plan, subject to an aggregate limitation of 1,390,000 shares of common stock. As of December 31, 2021, 82% of the shares reserved under our Amended and Restated 2012 Equity Incentive Plan, or a total of 1,144,073 restricted shares of our common stock, restricted stock units and/or other equity-based awards, had been granted and 18% of the shares reserved, or 245,927 shares remained available for future issuance under our Amended and Restated 2012 Equity Incentive Plan. Aside from our Amended and Restated 2012 Equity Incentive Plan, we have no other compensation plans or arrangements under which our securities may be issued (whether or not approved by our stockholders). For further discussion of our Amended and Restated 2012 Equity Incentive Plan, see Note 10 to our consolidated financial statements included in this annual report on Form 10-K.

The following table presents certain information about our equity compensation plans as of December 31, 2021:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in the first column of this table)(1)
Equity compensation plans approved by stockholders	—	$ —	245,927
Equity compensation plans not approved by stockholders	—	—	—
Total	—	$ —	245,927

---

(1) The securities shown in this column may be issued as restricted stock, restricted stock units and/or other equity-based awards to eligible awardees under our Amended and Restated 2012 Equity Incentive Plan.

See Note 10 included in these consolidated financial statements for our schedule of non-vested share and share equivalents.

All other information required by this item will be contained in the Company's definitive Proxy Statement for its 2022 Annual Stockholder Meeting, to be filed with the SEC within 120 days after December 31, 2021, and is incorporated herein by reference.

Item 13. Certain Relationships and Related Party Transactions, and Director Independence

The information required by this item will be contained in the Company's definitive Proxy Statement for its 2022 Annual Stockholder Meeting, to be filed with the SEC within 120 days after December 31, 2021, and is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

The information required by this item will be contained in the Company's definitive Proxy Statement for its 2022 Annual Stockholder Meeting, to be filed with the SEC within 120 days after December 31, 2021, and is incorporated herein by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

The following documents are filed as part of this annual report:

1. Financial Statements—See the Index to Consolidated Financial Statements on Page F-1.

2. Financial Statement Schedules—None. We have omitted financial statement schedules because they are not required or are not applicable, or the required information is shown in the consolidated financial statements or notes to the consolidated financial statements.

3. Exhibits.

Exhibit Number		Exhibit Description
3.1	*	Articles of Amendment and Restatement of Ares Commercial Real Estate Corporation.(1)
3.2	*	Amended and Restated Bylaws of Ares Commercial Real Estate Corporation.(2)
4.1	*	Description of Securities.(3)
10.1	*	Equity Distribution Agreement, dated as of November 22, 2019, by and among Ares Commercial Real Estate Corporation, Ares Commercial Real Estate Management LLC, and JMP Securities LLC and Raymond James & Associates, Inc., as Placement Agents.(4)
10.2	*	Registration Rights Agreement, dated April 25, 2012, between Ares Commercial Real Estate Corporation and Ares Investments Holdings LLC.(5)
10.3	*	Management Agreement, dated April 25, 2012, between Ares Commercial Real Estate Management LLC and Ares Commercial Real Estate Corporation.(6)
10.4	*	Trademark License Agreement, dated April 25, 2012, between Ares Commercial Real Estate Corporation and Ares Management LLC.(5)
10.5	*	Amended and Restated 2012 Equity Incentive Plan.(7)#
10.6	*	Form of Restricted Stock Agreement.(8)#
10.7	*	Form of Restricted Stock Agreement with officers.(7)#
10.8	*	Form of Restricted Stock Unit Award Agreement. (9)#
10.9	*	Form of Indemnification Agreement with directors and certain officers.(5)#
10.10	*	Form of Indemnification Agreement with members of the Investment Committee and/or Underwriting Committee of Ares Commercial Real Estate Management LLC.(5)#
10.11	*	Credit Agreement, dated as of March 12, 2014, by and among ACRC Lender LLC, as borrower, City National Bank, a national banking association, as arranger and administrative agent, and the lenders party thereto.(10)
10.12	*	General Continuing Guaranty, dated as of March 12, 2014, by Ares Commercial Real Estate Corporation, as guarantor, in favor of City National Bank, a national banking association, as arranger and administrative agent.(10)
10.13	*	Security Agreement, dated as of March 12, 2014, by ACRC Lender LLC, as borrower, in favor of City National Bank, a national banking association, as arranger and administrative agent.(10)
10.14	*	Intercompany Subordination Agreement, dated as of March 12, 2014, by and among ACRC Lender LLC, as borrower, and Ares Commercial Real Estate Corporation, as guarantor, in favor of City National Bank, a national banking association, as arranger and administrative agent.(10)
10.15	*	Master Repurchase Agreement, dated as of August 13, 2014, between ACRC Lender ML LLC, as seller, and Metropolitan Life Insurance Company, as buyer.(11)
10.16	*	Guaranty, dated as of August 13, 2014, by Ares Commercial Real Estate Corporation in favor of Metropolitan Life Insurance Company.(11)
10.17	*	Master Repurchase Agreement, dated as of December 8, 2014, by and between ACRC Lender C LLC, as seller, and Citibank, N.A., as buyer.(12)
10.18	*	Omnibus Amendment To Other Transaction Documents and Reaffirmation of Guaranty, dated as of December 8, 2014, by and among ACRC Lender C LLC, ACRC Lender LLC, Ares Commercial Real Estate Corporation and Citibank, N.A.(12)
10.19	*	Amendment Number One to Credit Agreement and Consent, dated as of July 30, 2014, by and among ACRC Lender LLC, as borrower, City National Bank, a national banking association, as arranger and administrative agent, and the lenders party thereto.(13)

10.20	*	Credit and Guaranty Agreement, dated as of December 9, 2015 by and among Ares Commercial Real Estate Corporation, as borrower and ACRC Holdings LLC, ACRC Mezz Holdings LLC, ACRC CP Investor LLC and ACRC Warehouse Holdings LLC, as guarantors, the lenders party thereto, Highbridge Principal Strategies, LLC, as administrative agent and DBD Credit Funding LLC, as collateral agent.(14)
10.21	*	Pledge and Security Agreement, dated as of December 9, 2015 among Ares Commercial Real Estate Corporation, ACRC Holdings LLC, ACRC Mezz Holdings LLC, ACRC CP Investor LLC, ACRC Warehouse Holdings LLC and ACRC Lender and DBD Credit Funding LLC, as collateral agent for the lenders.(14)
10.22	*	Negative Pledge Agreement, dated as of December 9, 2015 by Ares Commercial Real Estate Corporation, ACRC KA JV Investor LLC, ACRC Lender LLC, ACRC Champions Investor LLC and ACRE Capital Holdings LLC in favor of DBD Credit Funding LLC, as collateral agent for the lenders.(14)
10.23	*	Amendment No. 3 to Credit Agreement dated as of February 26, 2016, by and among ACRC Lender LLC, as borrower, City National Bank, a national banking association, as arranger and administrative agent, and the lenders party thereto.(15)
10.24	*	First Amendment to Master Repurchase Agreement and Guaranty dated as of July 13, 2016, among ACRC Lender C LLC, as borrower, Ares Commercial Real Estate Corporation, as guarantor, and Citibank, N.A., as lender.(16)
10.25	*	Second Amendment to Master Repurchase Agreement and Guaranty dated as of July 13, 2016, among ACRC Lender C LLC, as borrower, Ares Commercial Real Estate Corporation, as guarantor, and Citibank, N.A., as lender.(17)
10.26	*	Amendment No. 2 to Credit Agreement dated as of July 29, 2016, by and among ACRC Lender LLC, City National Bank, a national banking association, as arranger and administrative agent, and the lenders party thereto.(16)
10.27	*	Amendment to Guaranty, dated as of September 22, 2016, by Ares Commercial Real Estate Corporation, as guarantor, and Metropolitan Life Insurance Company, as buyer.(18)
10.28	*	Amendment No. 4 to Credit Agreement and Amendment No. 1 to General Continuing Guaranty dated as of December 27, 2016, by and among, by and among ACRC Lender LLC, as borrower, Ares Commercial Real Estate Corporation, as Guarantor and City National Bank, a national banking association, as administrative agent, and the lenders party thereto.(19)
10.29	*	Reaffirmation and Consent to Amendment No. 4 to Credit Agreement and Amendment No. 1 to General Continuing Guaranty dated as of December 27, 2016, by and among, by and among ACRC Lender LLC, as borrower, Ares Commercial Real Estate Corporation, as Guarantor and City National Bank, a national banking association, as administrative agent, and the lenders party thereto.(19)
10.30	*	Amendment No. 5 to Credit Agreement dated as of March 2, 2017, by and among ACRC Lender LLC, as borrower, Ares Commercial Real Estate Corporation, as Guarantor and City National Bank, a national banking association, as administrative agent, and the lenders party thereto.(20)
10.31	*	Indenture dated as of March 2, 2017 among ACRE Commercial Mortgage 2017-FL3 Ltd, as issuer, ACRE Commercial Mortgage 2017-FL3 LLC as co-issuer, Wilmington Trust, National Association, as trustee, Wells Fargo Bank, National Association, as note administrator, paying agent, calculation agent, transfer agent, authentication agent and custodian, and Wells Fargo Bank, National Association, as advancing agent.(20)
10.32	*	Mortgage Asset Purchase Agreement dated as of March 2, 2017 between ACRC Lender LLC, as seller and ACRE Commercial Mortgage 2017-FL3 Ltd., as issuer.(20)
10.33	*	Amendment No. 6 to the Credit Agreement dated as of April 19, 2017, by and among, the several banks and other financial institutions and lenders from time to time party hereto, each individually as a lender and, collectively, as the lenders, and City National Bank, as administrative agent to the lenders, and ACRC Lender LLC, as the borrower.(21)
10.34	*	Second Amended and Restated Master Repurchase and Securities Contract dated as of May 1, 2017, by and among, ACRC Lender W LLC, as existing seller, ACRC Lender W TRS LLC, as new seller, and Wells Fargo Bank, National Association, as buyer.(21)
10.35	*	Reaffirmation Agreement dated as of May 1, 2017, by Ares Commercial Real Estate Corporation in favor of Wells Fargo Bank, National Association.(21)
10.36	*	First Amendment to Master Repurchase Agreement, dated as of August 4, 2017, by and between ACRC Lender ML LLC, as seller, and Metropolitan Life Insurance Company, as buyer.(22)
10.37	*	Reaffirmation of Guarantor, dated as of August 4, 2017, by Ares Commercial Real Estate Corporation in favor of Metropolitan Life Insurance Company.(22)
10.38	*	First Supplemental Indenture dated as of August 16, 2017, to the Indenture, dated as of March 2, 2017 among ACRE Commercial Mortgage 2017-FL3 Ltd, as issuer, ACRE Commercial Mortgage 2017-FL3 LLC as co-issuer, Wilmington Trust, National Association, as trustee, Wells Fargo Bank, National Association, as note administrator, paying agent, calculation agent, transfer agent, authentication agent and custodian, and Wells Fargo Bank, National Association, as advancing agent.(23)

10.39	*	First Amendment to Credit and Guaranty Agreement dated as of December 22, 2017 and is entered into by and among, Wilmington Trust, National Association, as grantor trust trustee, as lender, Cortland Capital Market Services LLC, as the administrative agent and the collateral agent for the lenders, and Ares Commercial Real Estate Corporation, as borrower and ACRC Holdings LLC, ACRC Mezz Holdings LLC, ACRC CP Investor LLC and ACRC Warehouse Holdings LLC, as guarantors.(24)
10.40	*	Amended and Restated Fourth Amendment to Master Repurchase Agreement dated as of December 13, 2018, among ACRC Lender C LLC, as seller, Ares Commercial Real Estate Corporation, as guarantor, and Citibank, N.A., as buyer.(25)
10.41	*	Second Amended and Restated Substitute Guaranty Agreement, dated as of December 13, 2018, by Ares Commercial Real Estate Corporation in favor of Citibank, N.A.(25)
10.42	*	Amendment Number One to the Second Amended and Restated Master Repurchase and Securities Contract dated as of December 14, 2018, by and among, ACRC Lender W LLC, as seller, ACRC Lender W TRS LLC, as seller, and Wells Fargo Bank, National Association, as buyer.(26)
10.43	*	Amended and Restated Indenture dated as of January 11, 2019 among ACRE Commercial Mortgage 2017-FL3 Ltd., as issuer, ACRE Commercial Mortgage 2017-FL3 LLC, as co-issuer, Wilmington Trust, National Association, as trustee, and Wells Fargo Bank, National Association, as advancing agent and note administrator.(27)
10.44	*	Mortgage Asset Purchase Agreement dated as of January 11, 2019 between ACRC Lender LLC, as seller and ACRE Commercial Mortgage 2017-FL3 Ltd., as issuer.(27)
10.45	*	Amendment No. 7 to the Credit Agreement dated as of June 5, 2019, by and among, ACRC Lender LLC, as borrower, City National Bank, a national banking association, as arranger and administrative agent, and the lenders party thereto.(28)
10.46	*	First Amendment to Second Amended Restated Substitute Guaranty Agreement, dated as of July 24, 2019, by and among Ares Commercial Real Estate Corporation, as Guarantor, Citibank, N.A., as Buyer, and ACRC Lender C LLC, as Seller.(29)
10.47	*	Ninety Day Extension of Warehouse Period for Warehouse Advance for Mortgage Loan for Crowntree Lakes, Orlando, FL, dated as of September 5, 2019, by and among ACRC Lender B LLC, as Borrower, Ares Commercial Real Estate Corporation, as Guarantor, and Bank of America, N.A., as Lender.(29)
10.48	*	Ninety Day Extension of Warehouse Period for Warehouse Advance for Mortgage Loan for Crowntree Lakes, Orlando, FL, dated as of December 4, 2019, by and among ACRC Lender B LLC, as Borrower, Ares Commercial Real Estate Corporation, as Guarantor, and Bank of America, N.A., as Lender.(30)
10.49	*	Ninety Day Extension of Warehouse Period for Warehouse Advance for Mortgage Loan for Crowntree Lakes, Orlando, FL, effective as of February 3, 2020, by and among ACRC Lender B LLC, as Borrower, Ares Commercial Real Estate Corporation, as Guarantor, and Bank of America, N.A., as Lender.(31)
10.50	*	Second Amendment to Master Repurchase Agreement, dated August 4, 2020, by and between ACRC Lender ML LLC, as seller, and Metropolitan Life Insurance Company, as buyer.(32)
10.51	*	Reaffirmation of Guarantor dated August 4, 2020, by Ares Commercial Real Estate Corporation in favor of Metropolitan Life Insurance Company.(33)
10.52	*	Amendment Number Two to the Second Amended and Restated Master Repurchase and Securities Contract dated as of December 11, 2020, by and among, ACRC Lender W LLC, as seller, ACRC Lender W TRS LLC, as seller, and Wells Fargo Bank, National Association, as buyer.(34)
10.53	*	Indenture dated as of January 28, 2021, among ACRE Commercial Mortgage 2021-FL4 Ltd, as issuer, ACRE Commercial Mortgage 2021-FL4 LLC, as co-issuer, ACRC Lender LLC, as advancing agent, Wilmington Trust, National Association, as trustee, and Wells Fargo Bank, National Association, as note administrator.(35)
10.54	*	Mortgage Asset Purchase Agreement, dated as of January 28, 2021, between ACRC Lender LLC, as seller, and ACRE Commercial Mortgage 2021-FL4 Ltd., as issuer, and agreed and acknowledged by ACRC 2017-FL3 Holder REIT LLC.(36)
10.55	*	First Supplement to Amended and Restated Indenture dated as of April 13, 2021, by and among ACRE Commercial Mortgage 2017-FL3 Ltd., as issuer, ACRE Commercial Mortgage 2017-FL3 LLC, as co-issuer, Wells Fargo Bank, National Association, as advancing agent and note administrator, and Wilmington Trust, National Association, as trustee.(37)
10.56	*	Amended and Restated Credit and Guaranty Agreement, dated as of November 12, 2021, by and among, Wilmington Trust, National Association, as grantor trust trustee, as lender, Cortland Capital Market Services LLC, as the administrative agent and the collateral agent for the lenders, and Ares Commercial Real Estate Corporation, as borrower, and ACRC Holdings LLC, ACRC Mezz Holdings LLC and ACRC Warehouse Holdings LLC, as guarantors.(38)
10.57	*	Reaffirmation Agreement, dated as of November 12, 2021, by and among, Cortland Capital Market Services LLC, as the collateral agent for the lenders, and Ares Commercial Real Estate Corporation, as borrower, ACRC Holdings LLC, ACRC Mezz Holdings LLC and ACRC Warehouse Holdings LLC, as guarantors.(39)

10.58	*	Amendment Number Eight to Credit Agreement and Amendment to General Continuing Guaranty, dated as of November 12, 2021, by and among ACRC Lender LLC, as borrower, City National Bank, a national banking association, as arranger and administrative agent, the lenders party thereto, and Ares Commercial Real Estate Corporation, as guarantor.(40)
10.59	*	Fifth Amendment to Master Repurchase Agreement, dated as of November 30, 2021, by and among, ACRC Lender C LLC, as seller, Ares Commercial Real Estate Corporation, as guarantor, and Citibank, N.A., as buyer.(41)
10.60		Second Amendment to Second Amended and Restated Substitute Guaranty Agreement, dated as of February 10, 2022, by and among Ares Commercial Real Estate Corporation, as guarantor, Citibank, N.A., as buyer and ACRC Lender C LLC, as seller.
10.61		Amendment to Parent Guaranty and Indemnity, dated as of February 10, 2022, by and among Morgan Stanley Bank, N.A., as buyer, ACRC Lender MS LLC, as seller, and Ares Commercial Real Estate Corporation, as guarantor.
10.62		Second Amendment to Guaranty, dated as of February 10, 2022 by Ares Commercial Real Estate Corporation, as guarantor, and Metropolitan Life Insurance Company, as buyer.
10.63		Second Amended and Restated Guarantee Agreement, dated as of February 10, 2022 by and among Ares Commercial Real Estate Corporation, as guarantor, and Wells Fargo Bank, National Association, as buyer.
10.64		Third Amended and Restated Master Repurchase and Securities Contract, dated as of February 10, 2022, by and among ACRC Lender W LLC, as ACRC Seller, ACRC Lender W TRS LLC, as TRS Seller and Wells Fargo Bank, N.A., as buyer.
21.1		Subsidiaries of Ares Commercial Real Estate Corporation
23.1		Consent of Ernst & Young LLP
31.1		Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2		Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1		Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS		XBRL Instance Document
101.SCH		XBRL Taxonomy Extension Schema Document
101.CAL		XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB		XBRL Taxonomy Extension Label Linkbase Document
101.PRE		XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF		XBRL Taxonomy Extension Definition Linkbase Document
104		Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101)

---

* Previously filed

\# Denotes a management contract or compensatory plan or arrangement

(1) Incorporated by reference to Exhibit 3.1 to the Company’s Form 10-K (File No. 001-35517), filed on March 1, 2016.

(2) Incorporated by reference to Exhibit 3.2 to the Company’s Form S-8 (File No. 333-181077), filed on May 1, 2012.

(3) Incorporated by reference to Exhibit 4.1 to the Company's Form 10-K (File No. 001-35517), filed on February 20, 2020.

(4) Incorporated by reference to Exhibit 1.1 to the Company’s Form 8-K (File No. 001-35517), filed on November 22, 2019.

(5) Incorporated by reference to Exhibits 10.1, 10.3, 10.4 and 10.5, as applicable, to the Company’s Form 8-K (File No. 001-35517), filed on May 4, 2012.

(6) Incorporated by reference to Exhibit 10.17 to the Company’s Form 10-K (File No. 001-35517), filed on March 17, 2014.

(7) Incorporated by reference to Exhibits 10.1 and 10.3, as applicable, to the Company’s Form S-8 (File No. 333-225891), filed on June 26, 2018.

(8) Incorporated by reference to Exhibit 10.4 to the Company’s Registration Statement on Amendment No. 3 to Form S-11/A (File No. 333-176841), filed on April 12, 2012.

(9) Incorporated by reference to Exhibit 10.1 to the Company’s Form 8-K (File No. 001-35517), filed on January 2, 2020.

(10) Incorporated by reference to Exhibits 10.1, 10.2, 10.3 and 10.4, as applicable, to the Company’s Form 8-K (File No. 001-35517), filed on March 14, 2014.

(11) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company’s Form 8-K (File No. 001-35517), filed on August 18, 2014.

(12) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company's Form 8-K (File No. 001-35517), filed on December 12, 2014.
(13) Incorporated by reference to Exhibit 10.6 to the Company's Form 8-K (File No. 001-35517), filed on July 31, 2014.
(14) Incorporated by reference to Exhibits 10.1, 10.2 and 10.3, as applicable, to the Company's Form 8-K (File No. 001-35517), filed on December 14, 2015.
(15) Incorporated by reference to Exhibit 10.53 to the Company's Form 10-K (File No. 001-35517), filed on March 1, 2016.
(16) Incorporated by reference to Exhibits 10.4, 10.6, 10.8 and 10.9, as applicable, to the Company's Form 10-Q (File No. 001-35517), filed on August 4, 2016.
(17) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on July 19, 2016
(18) Incorporated by reference to Exhibit 10.11 to the Company's Form 10-Q (File No. 001-35517), filed on November 3, 2016.
(19) Incorporated by reference to Exhibits 10.42 and 10.43, as applicable, to the Company's Form 10-K (File No. 001-35517), filed on March 1, 2018.
(20) Incorporated by reference to Exhibits 10.1, 10.2 and 10.3, as applicable, to the Company's Form 10-Q (File No. 001-35517), filed on May 2, 2017.
(21) Incorporated by reference to Exhibits 10.1, 10.2 and 10.3, as applicable, to the Company's Form 10-Q (File No. 001-35517), filed on August 3, 2017.
(22) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company's Form 8-K (File No. 001-35517), filed on August 9, 2017.
(23) Incorporated by reference to Exhibit 10.3 to the Company's Form 10-Q (File No. 001-35517), filed on November 1, 2017.
(24) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on December 29, 2017.
(25) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company's Form 8-K (File No. 001-35517), filed on December 14, 2018.
(26) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on December 20, 2018.
(27) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company's Form 10-Q (File No. 001-35517), filed on May 1, 2019.
(28) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on June 7, 2019.
(29) Incorporated by reference to Exhibits 10.1 and 10.2, as applicable, to the Company's Form 10-Q (File No. 001-35517), filed on November 8, 2019.
(30) Incorporated by reference to Exhibit 10.57 to the Company's Form 10-K (File No. 001-35517), filed on February 20, 2020.
(31) Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q (File No. 001-35517), filed on May 8, 2020.
(32) Incorporated by reference to Exhibit 10.1 to the Company's Form 10-Q (File No. 001-35517), filed on October 29, 2020.
(33) Incorporated by reference to Exhibit 10.2 to the Company's Form 10-Q (File No. 001-35517), filed on October 29, 2020.
(34) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on December 14, 2020.
(35) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on January 28, 2021.
(36) Incorporated by reference to Exhibit 10.2 to the Company's Form 8-K (File No. 001-35517), filed on January 28, 2021.
(37) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on April 19, 2021.
(38) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on November 15, 2021.
(39) Incorporated by reference to Exhibit 10.2 to the Company's Form 8-K (File No. 001-35517), filed on November 15, 2021.
(40) Incorporated by reference to Exhibit 10.3 to the Company's Form 8-K (File No. 001-35517), filed on November 15, 2021.
(41) Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 001-35517), filed on December 1, 2021.

Item 16. Form 10-K Summary

None.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm (PCAOB ID: 42)	F-2
Consolidated Balance Sheets as of December 31, 2021 and 2020	F-5
Consolidated Statements of Operations for the years ended December 31, 2021, 2020 and 2019	F-6
Consolidated Statements of Stockholders' Equity for the years ended December 31, 2021, 2020 and 2019	F-8
Consolidated Statements of Cash Flows for the years ended December 31, 2021, 2020 and 2019	F-9
Notes to Consolidated Financial Statements	F-10

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Ares Commercial Real Estate Corporation

Opinion on Internal Control Over Financial Reporting

We have audited Ares Commercial Real Estate Corporation and subsidiaries' internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Ares Commercial Real Estate Corporation and subsidiaries (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes and our report dated February 14, 2022 expressed an unqualified opinion.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

Los Angeles, CA
February 14, 2022

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Ares Commercial Real Estate Corporation

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Ares Commercial Real Estate Corporation and subsidiaries (the Company) as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2021, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 14, 2022 expressed an unqualified opinion thereon.

Adoption of New Accounting Standard

As discussed in Note 2 to the consolidated financial statements, the Company changed its method of accounting for loan loss due to the adoption of the current expected credit loss standard. The Company adopted the standard on a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of January 1, 2020.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Current expected credit losses

Description of the Matter	At December 31, 2021, the Company's loan portfolio was $2.4 billion, the current expected credit loss reserve ("CECL" or the "CECL Reserve") related to the outstanding loan balance was $23.9 million and the current expected credit loss reserve for unfunded loan commitments was $1.3 million, resulting in a total current expected credit loss reserve of $25.2 million. As explained in Note 4 to the consolidated financial statements, the Company estimates its CECL Reserve primarily using a probability-weighted model that considers the likelihood of default and expected loss given default for an individual loan. The Company may also consider loan-specific qualitative factors on certain loans to estimate its CECL Reserve.
	Auditing the CECL Reserve is highly subjective due to the judgmental nature of the model and the underlying assumptions required to estimate expected credit losses as of the balance sheet date. For example, estimating the CECL Reserve required significant judgment with respect to various factors, including (i) the appropriate historical loan loss reference data, (ii) the expected timing of loan repayments, (iii) calibration of the likelihood of default to reflect the risk characteristics of the Company's floating-rate loan portfolio and (iv) the Company's current and future view of the macroeconomic environment.
How We Addressed the Matter in Our Audit	We obtained an understanding, evaluated the design and tested the operating effectiveness of the controls related to the measurement of the CECL Reserve. This included management's review controls over the assessment of the CECL methodology, the factors noted above and the review and approval process over the final determination of the CECL Reserve.
	To test management's estimate of the CECL Reserve, we performed audit procedures that included, among others, evaluating the methodology and the significant factors noted above as well as testing the completeness and accuracy of the data used. With the assistance of our valuation specialists and other professionals, we evaluated the Company's expected credit loss methodology and the incorporation of the factors noted above within the model. We also performed sensitivity analyses, compared management's expectations to information from external sources and reviewed subsequent events and transactions to evaluate whether they corroborated the Company's estimates of the CECL Reserve.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2012.

Los Angeles, CA

February 14, 2022

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	As of December 31,	
	2021	**2020**
ASSETS		
Cash and cash equivalents	$ 50,615	$ 74,776
Loans held for investment ($974,424 and $550,590 related to consolidated VIEs, respectively)	2,414,383	1,815,219
Current expected credit loss reserve	(23,939)	(23,604)
Loans held for investment, net of current expected credit loss reserve	2,390,444	1,791,615
Real estate owned held for sale, net	36,602	37,283
Other assets ($2,592 and $1,079 of interest receivable related to consolidated VIEs, respectively; $128,589 and $6,410 of other receivables related to consolidated VIEs, respectively)	154,177	25,823
Total assets	$ 2,631,838	$ 1,929,497
LIABILITIES AND STOCKHOLDERS' EQUITY		
LIABILITIES		
Secured funding agreements	$ 840,047	$ 755,552
Notes payable	50,358	61,837
Secured term loan	149,016	110,000
Collateralized loan obligation securitization debt (consolidated VIEs)	861,188	443,871
Secured borrowings	22,589	59,790
Due to affiliate	4,156	3,150
Dividends payable	16,674	11,124
Other liabilities ($570 and $391 of interest payable related to consolidated VIEs, respectively)	9,182	11,158
Total liabilities	1,953,210	1,456,482
Commitments and contingencies (Note 9)		
STOCKHOLDERS' EQUITY		
Common stock, par value $0.01 per share, 450,000,000 shares authorized at December 31, 2021 and 2020 and 47,144,058 and 33,442,332 shares issued and outstanding at December 31, 2021 and 2020, respectively	465	329
Additional paid-in capital	703,950	497,803
Accumulated other comprehensive income	2,844	—
Accumulated earnings (deficit)	(28,631)	(25,117)
Total stockholders' equity	678,628	473,015
Total liabilities and stockholders' equity	$ 2,631,838	$ 1,929,497

See accompanying notes to consolidated financial statements.

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)

	For the years ended December 31,		
	2021	**2020**	**2019**
Revenue:			
Interest income	$ 133,631	$ 121,052	$ 114,784
Interest expense	(50,080)	(51,949)	(62,583)
Net interest margin	83,551	69,103	52,201
Revenue from real estate owned	18,518	13,593	25,058
Total revenue	102,069	82,696	77,259
Expenses:			
Management and incentive fees to affiliate	12,136	8,159	7,363
Professional fees	2,436	2,640	2,194
General and administrative expenses	4,741	3,732	4,188
General and administrative expenses reimbursed to affiliate	3,016	3,653	3,026
Expenses from real estate owned	18,548	18,127	22,982
Total expenses	40,877	36,311	39,753
Provision for current expected credit losses	10	20,185	—
Realized losses on loans sold	—	4,008	—
Income before income taxes	61,182	22,192	37,506
Income tax expense, including excise tax	722	352	515
Net income attributable to common stockholders	$ 60,460	$ 21,840	$ 36,991
Earnings per common share:			
Basic earnings per common share	$ 1.43	$ 0.66	$ 1.29
Diluted earnings per common share	$ 1.42	$ 0.66	$ 1.28
Weighted average number of common shares outstanding:			
Basic weighted average shares of common stock outstanding	42,399,613	32,977,462	28,609,282
Diluted weighted average shares of common stock outstanding	42,681,505	33,196,508	28,846,641

See accompanying notes to consolidated financial statements.

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)

	For the years ended December 31,		
	2021	**2020**	**2019**
Net income attributable to common stockholders	$ 60,460	$ 21,840	$ 36,991
Other comprehensive income:			
Unrealized gains (losses) on derivative financial instruments	2,844	—	—
Comprehensive income	$ 63,304	$ 21,840	$ 36,991

See accompanying notes to consolidated financial statements.

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(in thousands, except share and per share data)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income	Accumulated Earnings (Deficit)	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2018	28,755,665	$ 283	$ 421,739	$ —	$ 3,565	$ 425,587
Stock-based compensation	109,945	—	1,880	—	—	1,880
Net income	—	—	—	—	36,991	36,991
Dividends declared	—	—	—	—	(38,119)	(38,119)
Balance at December 31, 2019	28,865,610	$ 283	$ 423,619	$ —	$ 2,437	$ 426,339
Sale of common stock	4,600,000	46	73,186	—	—	73,232
Offering costs	—	—	(341)	—	—	(341)
Stock-based compensation	(23,278)	—	1,339	—	—	1,339
Net income	—	—	—	—	21,840	21,840
Dividends declared	—	—	—	—	(44,343)	(44,343)
Impact of adoption of CECL (Note 2)	—	—	—	—	(5,051)	(5,051)
Balance at December 31, 2020	33,442,332	$ 329	$ 497,803	$ —	$ (25,117)	$ 473,015
Sale of common stock	13,637,237	136	204,643	—	—	204,779
Offering costs	—	—	(436)	—	—	(436)
Stock-based compensation	64,489	—	1,940	—	—	1,940
Other comprehensive income	—	—	—	2,844	—	2,844
Net income	—	—	—	—	60,460	60,460
Dividends declared	—	—	—	—	(63,974)	(63,974)
Balance at December 31, 2021	47,144,058	$ 465	$ 703,950	$ 2,844	$ (28,631)	$ 678,628

See accompanying notes to consolidated financial statements.

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	For the years ended December 31,		
	2021	2020	2019
Operating activities:			
Net income	$ 60,460	$ 21,840	$ 36,991
Adjustments to reconcile net income to net cash provided by (used in) operating activities:			
Amortization of deferred financing costs	9,895	6,434	6,569
Accretion of deferred loan origination fees and costs	(8,433)	(7,430)	(7,013)
Stock-based compensation	1,940	1,339	1,880
Depreciation of real estate owned	825	892	667
Provision for current expected credit losses	10	20,185	—
Realized losses on loans sold	—	4,008	—
Changes in operating assets and liabilities:			
Other assets	(18,545)	(15,344)	(6,435)
Due to affiliate	1,006	389	(402)
Other liabilities	1,192	(551)	195
Net cash provided by (used in) operating activities	48,350	31,762	32,452
Investing activities:			
Issuance of and fundings on loans held for investment	(1,241,996)	(524,166)	(673,160)
Principal repayment of loans held for investment	534,973	341,450	492,884
Proceeds from sale of loans held for sale	—	96,597	—
Receipt of origination fees	7,632	4,526	7,536
Purchases of capitalized additions to real estate owned	(144)	(274)	(1,686)
Payments under derivative financial instruments	(150)	—	—
Net cash provided by (used in) investing activities	(699,685)	(81,867)	(174,426)
Financing activities:			
Proceeds from secured funding agreements	970,036	473,493	793,801
Repayments of secured funding agreements	(885,541)	(446,530)	(843,186)
Proceeds from notes payable	15,869	6,967	56,155
Repayments of notes payable	(27,880)	—	—
Proceeds from secured term loan	90,000	—	—
Repayments of secured term loan	(50,000)	—	—
Proceeds from secured borrowings	—	60,215	—
Repayments of secured borrowings	(37,500)	—	—
Payment of secured funding costs	(13,066)	(5,065)	(5,731)
Proceeds from issuance of debt of consolidated VIEs	540,471	—	172,673
Repayments of debt of consolidated VIEs	(121,246)	—	—
Dividends paid	(58,424)	(42,765)	(37,487)
Proceeds from sale of common stock	204,779	73,232	—
Payment of offering costs	(324)	(301)	(84)
Net cash provided by (used in) financing activities	627,174	119,246	136,141
Change in cash and cash equivalents	(24,161)	69,141	(5,833)
Cash and cash equivalents, beginning of period	74,776	5,635	11,468
Cash and cash equivalents, end of period	$ 50,615	$ 74,776	$ 5,635
Supplemental Information:			
Interest paid during the period	$ 40,126	$ 46,137	$ 54,595
Income taxes paid during the period	$ 1,406	$ 399	$ 668
Supplemental disclosure of noncash investing and financing activities:			
Dividends declared, but not yet paid	$ 16,674	$ 11,124	$ 9,546
Other receivables related to consolidated VIEs	$ 128,589	$ 6,410	$ 41,104

See accompanying notes to consolidated financial statements.

ARES COMMERCIAL REAL ESTATE CORPORATION AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
As of December 31, 2021
(in thousands, except share and per share data, percentages and as otherwise indicated)

1. ORGANIZATION

Ares Commercial Real Estate Corporation (together with its consolidated subsidiaries, the "Company" or "ACRE") is a specialty finance company primarily engaged in originating and investing in commercial real estate loans and related investments. Through Ares Commercial Real Estate Management LLC ("ACREM" or the Company's "Manager"), a Securities and Exchange Commission ("SEC") registered investment adviser and a subsidiary of Ares Management Corporation (NYSE: ARES) ("Ares Management" or "Ares"), a publicly traded, leading global alternative investment manager, it has investment professionals strategically located across the United States and Europe who directly source new loan opportunities for the Company with owners, operators and sponsors of commercial real estate ("CRE") properties. The Company was formed and commenced operations in late 2011. The Company is a Maryland corporation and completed its initial public offering (the "IPO") in May 2012. The Company is externally managed by its Manager, pursuant to the terms of a management agreement (the "Management Agreement").

The Company operates as one operating segment and is primarily focused on directly originating and managing a diversified portfolio of CRE debt-related investments for the Company's own account. The Company's target investments include senior mortgage loans, subordinated debt, preferred equity, mezzanine loans and other CRE investments, including commercial mortgage backed securities. These investments are generally held for investment and are secured, directly or indirectly, by office, multifamily, retail, industrial, lodging, self storage, student housing, residential and other commercial real estate properties, or by ownership interests therein.

The Company has elected and qualified to be taxed as a real estate investment trust ("REIT") for United States federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), commencing with its taxable year ended December 31, 2012. The Company generally will not be subject to United States federal income taxes on its REIT taxable income as long as it annually distributes all of its REIT taxable income prior to the deduction for dividends paid to stockholders and complies with various other requirements as a REIT.

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying consolidated financial statements have been prepared on the accrual basis of accounting in conformity with United States generally accepted accounting principles ("GAAP") and include the accounts of the Company, the consolidated variable interest entities ("VIEs") that the Company controls and of which the Company is the primary beneficiary, and the Company's wholly-owned subsidiaries. The consolidated financial statements reflect all adjustments and reclassifications that, in the opinion of management, are necessary for the fair presentation of the Company's results of operations and financial condition as of and for the periods presented. All intercompany balances and transactions have been eliminated.

Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect certain reported amounts and disclosures. As of the date of this Annual Report, the novel coronavirus ("COVID-19") pandemic and preventative measures taken to contain or mitigate its spread have caused, and are continuing to cause, business shutdowns or the re-introduction of business shutdowns, cancellations of events and restrictions on travel, significant reductions in demand for certain goods and services, reductions in business activity and financial transactions and overall economic and financial market instability both globally and in the United States. The COVID-19 pandemic continues to disrupt global supply chains, has caused labor shortages and has added broad inflationary pressures, which has the potential to negatively impact the Company and its borrowers. While several countries, as well as certain states in the United States, have relaxed the public health restrictions through 2021 partly as a result of the introduction of vaccines, recurring COVID-19 outbreaks, including outbreaks caused by different virus variants, continue to lead to the re-introduction of certain restrictions in certain states in the United States and globally. Even after the COVID-19 pandemic subsides, the U.S. economy and most other major global economies may experience a recession, and we anticipate our business and operations could be materially adversely affected by a prolonged recession in the United States.

The Company believes the estimates and assumptions underlying its consolidated financial statements are reasonable and supportable based on the information available as of December 31, 2021, however, uncertainty over the ultimate impact the COVID-19 pandemic will have on the global economy and the Company's business, makes any estimates and assumptions as of December 31, 2021 inherently less certain than they would be absent the current and potential impacts of the COVID-19 pandemic. Actual results could differ from those estimates.

Variable Interest Entities

The Company evaluates all of its interests in VIEs for consolidation. When the Company's interests are determined to be variable interests, the Company assesses whether it is deemed to be the primary beneficiary of the VIE. The primary beneficiary of a VIE is required to consolidate the VIE. Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 810, *Consolidation*, defines the primary beneficiary as the party that has both (i) the power to direct the activities of the VIE that most significantly impact its economic performance, and (ii) the obligation to absorb losses and the right to receive benefits from the VIE which could be potentially significant. The Company considers its variable interests, as well as any variable interests of its related parties in making this determination. Where both of these factors are present, the Company is deemed to be the primary beneficiary and it consolidates the VIE. Where either one of these factors is not present, the Company is not the primary beneficiary and it does not consolidate the VIE.

To assess whether the Company has the power to direct the activities of a VIE that most significantly impact the VIE's economic performance, the Company considers all facts and circumstances, including its role in establishing the VIE and its ongoing rights and responsibilities. This assessment includes first, identifying the activities that most significantly impact the VIE's economic performance; and second, identifying which party, if any, has power over those activities. In general, the parties that make the most significant decisions affecting the VIE or have the right to unilaterally remove those decision makers are deemed to have the power to direct the activities of a VIE.

To assess whether the Company has the obligation to absorb losses of the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE, the Company considers all of its economic interests, including debt and equity investments, servicing fees, and other arrangements deemed to be variable interests in the VIE. This assessment requires that the Company applies judgment in determining whether these interests, in the aggregate, are considered potentially significant to the VIE. Factors considered in assessing significance include: the design of the VIE, including its capitalization structure; subordination of interests; payment priority; relative share of interests held across various classes within the VIE's capital structure; and the reasons why the interests are held by the Company.

For VIEs of which the Company is determined to be the primary beneficiary, all of the underlying assets, liabilities, equity, revenue and expenses of the structures are consolidated into the Company's consolidated financial statements.

The Company performs an ongoing reassessment of: (1) whether any entities previously evaluated under the majority voting interest framework have become VIEs, based on certain events, and therefore are subject to the VIE consolidation framework, and (2) whether changes in the facts and circumstances regarding its involvement with a VIE cause the Company's consolidation conclusion regarding the VIE to change. See Note 16 included in these consolidated financial statements for further discussion of the Company's VIEs.

Cash, Cash Equivalents and Restricted Cash

Cash and cash equivalents include funds on deposit with financial institutions, including demand deposits with financial institutions. Cash and short-term investments with an original maturity of three months or less when acquired are considered cash and cash equivalents for the purpose of the consolidated balance sheets and statements of cash flows.

Restricted cash includes deposits required under certain Secured Funding Agreements (each individually defined in Note 6 included in these consolidated financial statements).

The following table provides a reconciliation of cash, cash equivalents and restricted cash in the consolidated balance sheets to the total amount shown in the consolidated statements of cash flows ($ in thousands):

	As of December 31,		
	2021	2020	2019
Cash and cash equivalents	$ 50,615	$ 74,776	$ 5,256
Restricted cash	—	—	379
Total cash, cash equivalents and restricted cash shown in the Company's consolidated statements of cash flows	$ 50,615	$ 74,776	$ 5,635

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and cash equivalents and restricted cash, loans held for investment and interest receivable. The Company places its cash and cash equivalents with financial institutions and, at times, cash held may exceed the Federal Deposit Insurance Corporation insured limit. The Company has exposure to credit risk on its loans held for investment. The Company and the Company's Manager seek to manage credit risk by performing due diligence prior to origination or acquisition and through the use of non-recourse financing, when and where available and appropriate.

Loans Held for Investment

The Company originates CRE debt and related instruments generally to be held for investment. Loans that are held for investment are carried at cost, net of unamortized loan fees and origination costs (the "carrying value"). Loans are generally collateralized by real estate. The extent of any credit deterioration associated with the performance and/or value of the underlying collateral property and the financial and operating capability of the borrower could impact the expected amounts received. The Company monitors performance of its loans held for investment portfolio under the following methodology: (1) borrower review, which analyzes the borrower's ability to execute on its original business plan, reviews its financial condition, assesses pending litigation and considers its general level of responsiveness and cooperation; (2) economic review, which considers underlying collateral (i.e. leasing performance, unit sales and cash flow of the collateral and its ability to cover debt service, as well as the residual loan balance at maturity); (3) property review, which considers current environmental risks, changes in insurance costs or coverage, current site visibility, capital expenditures and market perception; and (4) market review, which analyzes the collateral from a supply and demand perspective of similar property types, as well as from a capital markets perspective. Such analyses are completed and reviewed by asset management and finance personnel who utilize various data sources, including periodic financial data such as property occupancy, tenant profile, rental rates, operating expenses, and the borrower's exit plan, among other factors.

Loans are generally placed on non-accrual status when principal or interest payments are past due 30 days or more or when there is reasonable doubt that principal or interest will be collected in full. Accrued and unpaid interest is generally reversed against interest income in the period the loan is placed on non-accrual status. Interest payments received on non-accrual loans may be recognized as income or applied to principal depending upon management's judgment regarding the borrower's ability to make pending principal and interest payments. Non-accrual loans are restored to accrual status when past due principal and interest are paid and, in management's judgment, are likely to remain current. The Company may make exceptions to placing a loan on non-accrual status if the loan has sufficient collateral value and is in the process of collection.

Loan balances that are deemed to be uncollectible are written off as a realized loss and are deducted from the current expected credit loss reserve. The write-offs are recorded in the period in which the loan balance is deemed uncollectible based on management's judgment.

Current Expected Credit Losses

Accounting Standards Update ("ASU") No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments,* requires the Company to reflect current expected credit losses ("CECL") on both the outstanding balances and unfunded commitments on loans held for investment and requires consideration of a broad range of historical experience adjusted for current conditions and reasonable and supportable forecast information to inform credit loss estimates (the "CECL Reserve"). ASU No. 2016-13 was effective for annual reporting periods beginning after December 15, 2019, including interim periods within that reporting period. ASU No. 2016-13 was adopted by the Company on a modified retrospective basis through a cumulative-effect adjustment to retained earnings as of January 1, 2020. Subsequent period increases and decreases to expected credit losses impact earnings and are recorded within provision for current expected credit losses in the Company's consolidated statements of operations. The CECL Reserve related to outstanding balances on loans held for investment required under ASU No. 2016-13 is a valuation account that is deducted from the amortized cost basis of the Company's loans held for investment in the Company's consolidated balance sheets. The CECL Reserve related to unfunded commitments on loans held for investment is recorded within other liabilities in the Company's consolidated balance sheets. See Note 4 included in these consolidated financial statements for CECL related disclosures.

Loans Held for Sale

Although the Company generally holds its target investments as long-term investments, the Company may occasionally classify some of its investments as held for sale. Investments held for sale are carried at fair value within loans held for sale, at fair value in the Company's consolidated balance sheets, with changes in fair value recorded through earnings.

Real Estate Owned

Real estate assets are carried at their estimated fair value at acquisition and are presented net of accumulated depreciation and impairment charges. The Company allocates the purchase price of acquired real estate assets based on the fair value of the acquired land, building, furniture, fixtures and equipment.

Real estate assets are depreciated using the straight-line method over estimated useful lives of up to 40 years for buildings and improvements and up to 15 years for furniture, fixtures and equipment. Renovations and/or replacements that improve or extend the life of the real estate asset are capitalized and depreciated over their estimated useful lives. The cost of ordinary repairs and maintenance are expensed as incurred.

Real estate assets are evaluated for indicators of impairment on a quarterly basis. Factors that the Company may consider in its impairment analysis include, among others: (1) significant underperformance relative to historical or anticipated operating results; (2) significant negative industry or economic trends; (3) costs necessary to extend the life or improve the real estate asset; (4) significant increase in competition; and (5) ability to hold and dispose of the real estate asset in the ordinary course of business. A real estate asset is considered impaired when the sum of estimated future undiscounted cash flows expected to be generated by the real estate asset over the estimated remaining holding period is less than the carrying amount of such real estate asset. Cash flows include operating cash flows and anticipated capital proceeds generated by the real estate asset. An impairment charge is recorded equal to the excess of the carrying value of the real estate asset over the fair value. When determining the fair value of a real estate asset, the Company makes certain assumptions including, but not limited to, consideration of projected operating cash flows, comparable selling prices and projected cash flows from the eventual disposition of the real estate asset based upon the Company's estimate of a capitalization rate and discount rate.

The Company reviews its real estate assets, from time to time, in order to determine whether to sell such assets. Real estate assets are classified as held for sale when the Company commits to a plan to sell the asset, when the asset is being actively marketed for sale at a reasonable price and the sale of the asset is probable and the transfer of the asset is expected to qualify for recognition as a completed sale within one year. Real estate assets that are held for sale are carried at the lower of the asset's carrying amount or its fair value less costs to sell.

Debt Issuance Costs

Debt issuance costs under the Company's indebtedness are capitalized and amortized over the term of the respective debt instrument. Unamortized debt issuance costs are expensed when the associated debt is repaid prior to maturity. Debt issuance costs related to debt securitizations are capitalized and amortized over the term of the underlying loans using the effective interest method. When an underlying loan is prepaid in a debt securitization and the outstanding principal balance of the securitization debt is reduced, the related unamortized debt issuance costs are charged to expense based on a pro-rata share of the debt issuance costs being allocated to the specific loans that were prepaid. Amortization of debt issuance costs is included

within interest expense, except as noted below, in the Company's consolidated statements of operations while the unamortized balance on (i) Secured Funding Agreements (each individually defined in Note 6 included in these consolidated financial statements) is included within other assets and (ii) Notes Payable, the Secured Term Loan (each defined in Note 6 included in these consolidated financial statements) and Secured Borrowings (defined in Note 7 included in these consolidated financial statements) and debt securitizations are each included as a reduction to the carrying amount of the liability, in the Company's consolidated balance sheets. Amortization of debt issuance costs for the note payable on the hotel property that is recognized as real estate owned in the Company's consolidated balance sheets (see Note 6 included in these consolidated financial statements for additional information on the note payable) is included within expenses from real estate owned in the Company's consolidated statements of operations.

Derivative Financial Instruments

Derivative financial instruments are classified as either other assets (gain positions) or other liabilities (loss positions) in the Company's consolidated balance sheets at fair value. These amounts may be offset to the extent that there is a legal right to offset and if elected by management.

On the date the Company enters into a derivative contract, the Company designates each contract as a hedge of a forecasted transaction or of the variability of cash flows to be received or paid related to a recognized asset or liability, or cash flow hedge, or as a derivative instrument not to be designated as a hedging derivative, or non-designated hedge. For all derivatives other than those designated as non-designated hedges, the Company formally documents the hedge relationships and designation at the contract's inception. This documentation includes the identification of the hedging instruments and the hedged items, its risk management objectives, strategy for undertaking the hedge transaction and an evaluation of the effectiveness of its hedged transaction.

The Company performs a formal assessment on a quarterly basis on whether the derivative designated in each hedging relationship is expected to be, and has been, highly effective in offsetting changes in the value or cash flows of the hedged items. Changes in the fair value of derivative contracts are recorded each period in either current earnings or other comprehensive income ("OCI"), depending on whether the derivative is designated as part of a hedge transaction and, if so, the type of hedge transaction. For derivatives that are designated as cash flow hedges, the effective portion of the unrealized gains or losses on these contracts is recorded in OCI. If it is determined that a derivative is not highly effective at hedging the designated exposure, hedge accounting is discontinued and the changes in fair value of the instrument are included in current earnings prospectively. The Company does not enter into derivatives for trading or speculative purposes.

Revenue Recognition

Interest income is accrued based on the outstanding principal amount and the contractual terms of each loan. For loans held for investment, the origination fees, contractual exit fees and direct loan origination costs are also recognized in interest income over the initial loan term as a yield adjustment using the effective interest method.

Revenue from real estate owned represents revenue associated with the operations of a hotel property classified as real estate owned. Revenue from the operation of the hotel property is recognized when guestrooms are occupied, services have been rendered or fees have been earned. Revenues are recorded net of any discounts and sales and other taxes collected from customers. Revenues consist of room sales, food and beverage sales and other hotel revenues.

Net Interest Margin and Interest Expense

Net interest margin in the Company's consolidated statements of operations serves to measure the performance of the Company's loans as compared to its use of debt leverage. The Company includes interest income from its loans and interest expense related to its Secured Funding Agreements, Notes Payable, securitization debt, the Secured Term Loan (each individually defined in Note 6 included in these consolidated financial statements) and Secured Borrowings (defined in Note 7 included in these consolidated financial statements) in net interest margin. For the years ended December 31, 2021, 2020 and 2019, interest expense is comprised of the following ($ in thousands):

	For the years ended December 31,		
	2021	2020	2019
Secured funding agreements	$ 16,403	$ 28,003	$ 32,859
Notes payable (1)	2,275	1,317	867
Securitization debt	20,104	12,384	19,950
Secured term loan	4,353	7,114	8,907
Secured borrowings	6,145	3,131	—
Other (2)	800	—	—
Interest expense	$ 50,080	$ 51,949	$ 62,583

(1) Excludes interest expense on the $28.3 million note payable, which is secured by a hotel property that is recognized as real estate owned in the Company's consolidated balance sheets (see Note 6 included in these consolidated financial statements for additional information on the note payable). Interest expense on the $28.3 million note payable is included within expenses from real estate owned in the Company's consolidated statements of operations.

(2) Represents the net interest expense recognized from the Company's derivative financial instruments upon periodic settlement.

Income Taxes

The Company has elected and qualified for taxation as a REIT commencing with its taxable year ended December 31, 2012. As a result of the Company's REIT qualification and its distribution policy, the Company does not generally pay United States federal corporate level income taxes. Many of the REIT requirements, however, are highly technical and complex. To continue to qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement that the Company distributes annually to its stockholders at least 90% of the Company's REIT taxable income prior to the deduction for dividends paid. To the extent that the Company distributes less than 100% of its REIT taxable income in any tax year (taking into account any distributions made in a subsequent tax year under Sections 857(b)(9) or 858 of the Code), the Company will pay tax at regular corporate rates on that undistributed portion. Furthermore, if the Company distributes less than the sum of 1) 85% of its ordinary income for the calendar year, 2) 95% of its capital gain net income for the calendar year, and 3) any undistributed shortfall from its prior calendar year (the "Required Distribution") to its stockholders during any calendar year (including any distributions declared by the last day of the calendar year but paid in the subsequent year), then it is required to pay a non-deductible excise tax equal to 4% of any shortfall between the Required Distribution and the amount that was actually distributed. The 90% distribution requirement does not require the distribution of net capital gains. However, if the Company elects to retain any of its net capital gain for any tax year, it must notify its stockholders and pay tax at regular corporate rates on the retained net capital gain. The stockholders must include their proportionate share of the retained net capital gain in their taxable income for the tax year, and they are deemed to have paid the REIT's tax on their proportionate share of the retained capital gain. Furthermore, such retained capital gain may be subject to the nondeductible 4% excise tax. If it is determined that the Company's estimated current year taxable income will be in excess of estimated dividend distributions (including capital gain dividend) for the current year from such income, the Company accrues excise tax on estimated excess taxable income as such taxable income is earned. The annual expense is calculated in accordance with applicable tax regulations. Excise tax expense is included in the line item income tax expense, including excise tax in the consolidated statements of operations included in this annual report on Form 10-K.

The Company formed a wholly-owned subsidiary, ACRC Lender W TRS LLC ("ACRC W TRS"), in December 2013 in order to issue and hold certain loans intended for sale. The Company also formed a wholly-owned subsidiary, ACRC 2017-FL3 TRS LLC ("FL3 TRS"), in March 2017 in order to hold a portion of the CLO Securitizations (as defined below), including the portion that generates excess inclusion income. Additionally, the Company also formed a wholly-owned subsidiary, ACRC WM Tenant LLC ("ACRC WM"), in March 2019 in order to lease the hotel property classified as real estate owned, which was acquired on March 8, 2019. Entity classification elections to be taxed as a corporation and taxable REIT subsidiary ("TRS") elections were made with respect to ACRC W TRS, FL3 TRS and ACRC WM. A TRS is an entity taxed as a corporation that has not elected to be taxed as a REIT, in which a REIT directly or indirectly holds equity, and that has made a joint election with such REIT to be treated as a TRS. A TRS generally may engage in any business, including investing in assets and engaging in activities that could not be held or conducted directly by the Company without jeopardizing its qualification as a REIT. A TRS is subject to applicable United States federal, state and local income tax on its taxable income. In addition, as a REIT, the Company also may be subject to a 100% excise tax on certain transactions between it and its TRS that are not

conducted on an arm's-length basis. For financial reporting purposes, a provision for current and deferred taxes has been established for the portion of the Company's GAAP consolidated earnings recognized by ACRC W TRS, FL3 TRS and ACRC WM. The income tax provision is included in the line item income tax expense, including excise tax in the consolidated statements of operations included in this annual report on Form 10-K.

FASB ASC Topic 740, *Income Taxes* ("ASC 740"), prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. ASC 740 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The Company has analyzed its various federal and state filing positions and believes that its income tax filing positions and deductions are well documented and supported. As of December 31, 2021 and 2020, based on the Company's evaluation, there is no reserve for any uncertain income tax positions. ACRC W TRS, FL3 TRS and ACRC WM recognize interest and penalties, if any, related to unrecognized tax benefits within income tax expense in the consolidated statements of operations. Accrued interest and penalties, if any, are included within other liabilities in the consolidated balance sheets.

Comprehensive Income

Comprehensive income consists of net income and OCI that are excluded from net income.

Stock-Based Compensation

The Company recognizes the cost of stock-based compensation, which is included within general and administrative expenses in the Company's consolidated statements of operations. The fair value of the time vested restricted stock or restricted stock units ("RSUs") granted is recorded to expense on a straight-line basis over the vesting period for the award, with an offsetting increase in stockholders' equity. For grants to directors and officers and employees of the Manager, the fair value is determined based upon the market price of the stock on the grant date.

Earnings per Share

The Company calculates basic earnings (loss) per share by dividing net income (loss) allocable to common stockholders for the period by the weighted average shares of common stock outstanding for that period after consideration of the earnings (loss) allocated to the Company's restricted stock, which are participating securities as defined in GAAP. Diluted earnings (loss) per share takes into effect any dilutive instruments, such as restricted stock, RSUs and convertible debt, except when doing so would be anti-dilutive. See Note 11 included in these consolidated financial statements for the earnings per share calculations.

Recent Accounting Pronouncements

In March 2020, the FASB issued ASU No. 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides optional expedients and exceptions for applying GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. The amendments apply only to contracts, hedging relationships, and other transactions that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued because of reference rate reform. In January 2021, the FASB issued ASU No. 2021-01, *Reference Rate Reform (Topic 848),* to clarify that certain optional expedients and exceptions in Topic 848 for contract modifications and hedge accounting apply to derivative instruments that use an interest rate for margining, discounting, or contract price alignment that is modified as a result of reference rate reform. ASU No. 2020-04 and ASU No. 2021-01 are effective for all entities and may be adopted retrospectively as of any date from the beginning of any interim period that includes or is subsequent to March 12, 2020 or prospectively to new modifications through December 31, 2022. The Company is currently evaluating the impact of adopting these ASUs on its consolidated financial statements.

3. LOANS HELD FOR INVESTMENT

As of December 31, 2021, the Company's portfolio included 72 loans held for investment, excluding 116 loans that were repaid, sold or converted to real estate owned since inception. The aggregate originated commitment under these loans at closing was approximately \$2.8 billion and outstanding principal was \$2.4 billion as of December 31, 2021. During the year ended December 31, 2021, the Company funded approximately \$1.3 billion of outstanding principal and received repayments of \$657.2 million of outstanding principal as described in more detail in the tables below. As of December 31, 2021, 93.1% of the Company's loans have LIBOR floors, with a weighted average floor of 1.10%, calculated based on loans with LIBOR floors. References to LIBOR or "L" are to 30-day LIBOR (unless otherwise specifically stated).

The Company's investments in loans held for investment are accounted for at amortized cost. The following tables summarize the Company's loans held for investment as of December 31, 2021 and 2020 ($ in thousands):

	As of December 31, 2021				
	Carrying Amount (1)	Outstanding Principal (1)	Weighted Average Unleveraged Effective Yield		Weighted Average Remaining Life (Years)
Senior mortgage loans	$ 2,397,655	$ 2,411,718	5.3 % (2)	5.4 % (3)	1.5
Subordinated debt and preferred equity investments	16,728	17,394	13.7 % (2)	13.7 % (3)	4.0
Total loans held for investment portfolio	$ 2,414,383	$ 2,429,112	5.4 % (2)	5.5 % (3)	1.6

	As of December 31, 2020				
	Carrying Amount (1)	Outstanding Principal (1)	Weighted Average Unleveraged Effective Yield		Weighted Average Remaining Life (Years)
Senior mortgage loans	$ 1,713,601	$ 1,723,638	5.9% (2)	6.2 % (3)	1.2
Subordinated debt and preferred equity investments	101,618	102,603	13.4% (2)	13.4 % (3)	1.9
Total loans held for investment portfolio	$ 1,815,219	$ 1,826,241	6.3% (2)	6.6 % (3)	1.2

____

(1) The difference between the Carrying Amount and the Outstanding Principal amount of the loans held for investment consists of unamortized purchase discount, deferred loan fees and loan origination costs.

(2) Unleveraged Effective Yield is the compounded effective rate of return that would be earned over the life of the investment based on the contractual interest rate (adjusted for any deferred loan fees, costs, premiums or discounts) and assumes no dispositions, early prepayments or defaults. The total Weighted Average Unleveraged Effective Yield is calculated based on the average of Unleveraged Effective Yield of all loans held by the Company as of December 31, 2021 and 2020 as weighted by the outstanding principal balance of each loan.

(3) Unleveraged Effective Yield is the compounded effective rate of return that would be earned over the life of the investment based on the contractual interest rate (adjusted for any deferred loan fees, costs, premiums or discounts) and assumes no dispositions, early prepayments or defaults. The total Weighted Average Unleveraged Effective Yield is calculated based on the average of Unleveraged Effective Yield of all interest accruing loans held by the Company as of December 31, 2021 and 2020 as weighted by the total outstanding principal balance of each interest accruing loan (excludes loans on non-accrual status as of December 31, 2021 and 2020).

Table of Contents

A more detailed listing of the Company's loans held for investment portfolio based on information available as of December 31, 2021 is as follows ($ in millions, except percentages):

Loan Type	Location	Outstanding Principal (1)	Carrying Amount (1)	Interest Rate	Unleveraged Effective Yield (2)		Maturity Date (3)		Payment Terms (4)	
Senior Mortgage Loans:										
Office	IL	$150.5	$149.9	L+3.61%	5.5%		Mar 2023		I/O	
Office	Diversified	113.6	113.4	L+3.65%	5.7%		Jan 2023		I/O	
Mixed-use	FL	84.0	84.0	L+4.25%	5.7%		Feb 2023	(5)	I/O	
Industrial	IL	77.5	76.9	L+4.55%	5.1%		May 2024		I/O	
Office	AZ	77.4	76.6	L+3.50%	4.0%		Oct 2024		I/O	
Industrial	NY	77.3	77.3	L+5.00%	7.1%		Feb 2022	(6)	I/O	
Mixed-use	NY	75.0	74.4	L+3.65%	4.1%		Jul 2024		I/O	
Hotel	OR/WA	68.1	67.6	L+3.45%	7.4%		May 2022	(7)	I/O	
Multifamily/Office	SC	67.0	66.7	L+2.90%	3.2%		Nov 2024		I/O	
Residential Condominium	FL	66.9	66.3	L+5.25%	6.0%		Jul 2023		I/O	
Office	NC	64.7	64.0	L+3.55%	4.2%		Aug 2024		I/O	
Office	NC	63.9	63.9	L+4.25%	6.7%		Mar 2022	(8)	I/O	
Office	NY	61.6	60.8	L+3.85%	4.3%		Aug 2025		I/O	
Office	IL	61.0	60.9	L+3.75%	5.3%		Dec 2022	(9)	I/O	
Hotel	Diversified	60.6	60.5	L+3.60%	6.0%		Sep 2022	(10)	P/I	(11)
Office	IL	57.2	57.2	L+3.95%	6.2%		Jun 2022	(12)	P/I	(11)
Mixed-use	CA	57.1	56.9	(13)	5.5%		Jan 2024		I/O	
Multifamily	TX	56.2	55.6	L+2.85%	3.4%		Dec 2024		I/O	
Self Storage	NJ	55.5	55.6	L+3.80%	4.1%		Feb 2024		I/O	
Residential Condominium	NY	54.5	54.5	(14)	10.8%		May 2021	(14)	I/O	
Office	GA	46.6	46.5	L+3.05%	5.7%		Dec 2022		I/O	
Hotel	CA	40.0	39.8	L+4.12%	5.8%		Jan 2023	(15)	I/O	
Multifamily	SC	37.4	37.2	L+2.75%	3.4%		Jun 2023		I/O	
Student Housing	CA	36.2	36.2	L+3.95%	4.3%		Jul 2022		I/O	
Mixed-use	TX	35.8	35.6	(16)	4.7%		Sep 2022		I/O	
Mixed-use	CA	35.4	35.2	L+4.10%	6.3%		Mar 2023		I/O	
Multifamily	SC	34.0	33.8	L+6.50%	10.2%		Sep 2022		I/O	
Hotel	MI	33.2	33.2	L+3.95%	4.3%		Jul 2022		I/O	
Hotel	IL	32.9	30.7	L+4.40%	—%	(17)	May 2022	(17)	I/O	
Office	CA	32.3	32.2	L+3.35%	6.0%		Nov 2022		I/O	
Multifamily	CA	31.7	31.4	L+2.90%	3.3%		Dec 2025		I/O	
Student Housing	NC	30.0	30.0	L+3.15%	5.9%		Feb 2022		I/O	
Multifamily	PA	29.4	29.3	L+3.00%	4.5%		Dec 2022	(18)	I/O	
Office	IL	28.5	28.4	L+3.80%	6.2%		Jan 2023		I/O	
Office	NC	28.5	28.2	L+3.53%	6.8%		May 2023		I/O	
Industrial	FL	25.5	25.3	L+2.90%	3.2%		Dec 2025		I/O	
Industrial	TX	25.3	25.1	L+4.65%	5.1%		Dec 2024		I/O	
Student Housing	TX	24.6	24.4	L+3.45%	5.6%		Feb 2023		I/O	
Industrial	NJ	23.2	22.9	L+3.75%	4.7%		May 2024		I/O	
Multifamily	WA	23.1	23.0	L+2.90%	3.2%		Nov 2025		I/O	
Office	CA	22.9	22.8	L+3.40%	6.0%		Nov 2022	(19)	I/O	
Student Housing	FL	22.0	22.0	L+3.25%	5.9%		Aug 2022		I/O	
Multifamily	TX	21.9	21.7	L+2.50%	3.0%		Oct 2024		I/O	
Industrial	CO	20.8	20.6	L+6.75%	7.7%		Feb 2023		I/O	
Student Housing	AL	19.5	19.3	L+3.85%	4.3%		May 2024		I/O	
Multifamily	WA	18.7	18.6	L+3.00%	5.1%		Mar 2023		I/O	
Industrial	CA	16.7	16.6	L+3.75%	6.4%		Mar 2023		I/O	
Residential	CA	14.3	14.3	13.00%	—%	(20)	May 2021	(20)	I/O	
Self Storage	PA	12.7	12.6	L+3.05%	4.3%		Oct 2024		I/O	
Self Storage	MD	12.4	12.3	L+3.05%	4.3%		Oct 2024		I/O	
Self Storage	MD	12.0	11.9	L+3.05%	4.3%		Oct 2024		I/O	
Self Storage	FL	10.8	10.8	L+2.90%	4.4%		Dec 2023		I/O	
Industrial	TX	10.4	10.2	L+5.25%	5.9%		Dec 2024		I/O	
Self Storage	WA	10.2	10.1	L+3.05%	4.3%		Oct 2024		I/O	
Office	NC	9.4	9.4	L+4.00%	6.6%		Nov 2022		I/O	
Self Storage	MO	8.8	8.7	L+3.05%	4.3%		Oct 2024		I/O	
Self Storage	AZ	8.4	8.4	L+2.90%	4.0%		May 2024		I/O	

Industrial	PA	8.0	8.0	L+5.50%	6.1%	Sep 2024	I/O
Industrial	FL	7.8	7.7	L+5.90%	6.6%	Nov 2024	I/O
Self Storage	AZ	7.4	7.3	L+2.90%	4.1%	May 2024	I/O
Industrial	PA	7.0	6.9	L+5.90%	6.5%	Nov 2024	I/O
Self Storage	FL	7.0	6.9	L+2.90%	4.3%	Dec 2023	I/O
Industrial	TN	6.7	6.6	L+5.50%	6.1%	Nov 2024	I/O
Self Storage	FL	6.4	6.4	L+2.90%	4.3%	Dec 2023	I/O
Self Storage	MO	6.2	6.2	L+3.00%	4.4%	Dec 2023	I/O
Self Storage	IL	5.6	5.6	L+3.00%	4.3%	Dec 2023	I/O
Self Storage	FL	4.4	4.4	L+2.90%	4.2%	Dec 2023	I/O
Self Storage	CO	3.2	3.2	L+2.90%	3.8%	Apr 2024	I/O
Industrial	CO	2.9	2.9	L+6.25%	6.9%	Sep 2024	I/O
Industrial	AZ	2.7	2.6	L+5.90%	6.5%	Oct 2024	I/O
Industrial	GA	1.3	1.3	L+5.25%	5.9%	Sep 2024	I/O
Subordinated Debt and Preferred Equity Investments:							
Office	NJ	17.4	16.7	12.00%	13.7%	Jan 2026	I/O
Total/Weighted Average		$2,429.1	$2,414.4		5.4%		

____

(1) The difference between the Carrying Amount and the Outstanding Principal amount of the loans held for investment consists of unamortized purchase discount, deferred loan fees and loan origination costs. For the loans held for investment that represent co-investments with other investment vehicles managed by Ares Management (see Note 14 included in these consolidated financial statements for additional information on co-investments), only the portion of Carrying Amount and Outstanding Principal held by the Company is reflected.

(2) Unleveraged Effective Yield is the compounded effective rate of return that would be earned over the life of the investment based on the contractual interest rate (adjusted for any deferred loan fees, costs, premiums or discounts) and assumes no dispositions, early prepayments or defaults. Unleveraged Effective Yield for each loan is calculated based on LIBOR as of December 31, 2021 or the LIBOR floor, as applicable. The total Weighted Average Unleveraged Effective Yield is calculated based on the average of Unleveraged Effective Yield of all loans held by the Company as of December 31, 2021 as weighted by the outstanding principal balance of each loan.

(3) Certain loans are subject to contractual extension options that generally vary between one and two 12-month extensions and may be subject to performance based or other conditions as stipulated in the loan agreement. Actual maturities may differ from contractual maturities stated herein as certain borrowers may have the right to prepay with or without paying a prepayment penalty. The Company may also extend contractual maturities and amend other terms of the loans in connection with loan modifications.

(4) I/O = interest only, P/I = principal and interest.

(5) In March 2021, the Company and the borrower entered into a modification and extension agreement to, among other things, extend the maturity date on the senior Florida loan to February 2023.

(6) In August 2021, the borrower exercised a six-month extension option in accordance with the loan agreement, which extended the maturity date on the senior New York loan to February 2022.

(7) In March 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the Oregon/Washington loan to May 2022. At origination, the Oregon/Washington loan was structured as both a senior and mezzanine loan with the Company holding both positions. The mezzanine position of this loan, which had an outstanding principal balance of $13.1 million as of December 31, 2021, was previously on non-accrual status. During the three months ended June 30, 2021, the mezzanine position was restored to accrual status as, based on management's judgment, there is no longer reasonable doubt that principal or interest will be collected in full.

(8) In February 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior North Carolina loan to March 2022.

(9) In December 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior Illinois loan to December 2022.

(10) In September 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior diversified loan to September 2022.

(11) Amortization began on the senior Illinois loan, which had an outstanding principal balance of $57.2 million as of December 31, 2021, and the senior diversified loan, which had an outstanding principal balance of $60.6 million as of December 31, 2021, in July 2021 and October 2021, respectively. The remainder of the loans in the Company’s portfolio are non-amortizing through their primary terms.

(12) In April 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior Illinois loan to June 2022.

(13) At origination, the California loan was structured as both a senior and mezzanine loan with the Company holding both positions. The senior loan, which had an outstanding principal balance of $45.0 million as of December 31, 2021, accrues interest at a per annum rate of L + 3.80% and the mezzanine loan, which had an outstanding principal balance of $12.1 million as of December 31, 2021, accrues interest at a per annum rate of 12.00%.

(14) At origination, the New York loan was structured as both a senior and mezzanine loan with the Company holding the mezzanine loan and a third party holding the senior loan. In April 2021, the Company purchased the senior loan from the third party at par. The senior loan, which had an outstanding principal balance of $35.9 million as of December 31, 2021, accrues interest at a per annum rate of L + 6.00% and the mezzanine loan, which had an outstanding principal balance of $15.9 million as of December 31, 2021, accrues interest at a per annum rate of L + 14.00%. The mezzanine loan includes a $2.6 million loan to the borrower, for which such amount accrues interest at a per annum rate of 20.00%. As of December 31, 2021, the New York loan, which is collateralized by a residential condominium property located in New York, is in maturity default due to the failure of the borrower to repay the outstanding principal balance of the loan by the May 2021 maturity date. The Company evaluated this loan for impairment and concluded that no impairment charge should be recognized as of December 31, 2021 and that this loan should not be placed on non-accrual status as of December 31, 2021. This conclusion was based in part on: (1) the current estimated fair market value of the underlying collateral property and applicable reserves and (2) the estimated cash flows from the sale of units of the underlying collateral property. The estimated fair market value of the underlying collateral property was determined using the comparable market sales approach.

(15) In November 2021, the Company and the borrower entered into a modification and extension agreement to, among other things, extend the maturity date on the senior California loan to January 2023.

(16) In March 2021, the Company and the borrower entered into a modification agreement to, among other things, split the original senior Texas loan into two separate notes. Note A, which had an outstanding principal balance of $35.3 million as of December 31, 2021, accrues interest at a per annum rate of L + 3.75% and Note B, which had an outstanding principal balance of $0.4 million as of December 31, 2021, accrues interest at a per annum rate of L+10.00%.

(17) Loan was on non-accrual status as of December 31, 2021 and therefore, there is no Unleveraged Effective Yield as the loan is non-interest accruing. In May 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior Illinois loan to May 2022.

(18) In October 2021, the Company and the borrower entered into a modification and extension agreement to, among other things, extend the maturity date on the senior Pennsylvania loan to December 2022.

(19) In September 2021, the borrower exercised a one-year extension option in accordance with the loan agreement, which extended the maturity date on the senior California loan to November 2022.

(20) Loan was on non-accrual status as of December 31, 2021 and therefore, there is no Unleveraged Effective Yield as the loan is non-interest accruing. As of December 31, 2021, the senior California loan, which is collateralized by a residential property, is in maturity default due to the failure of the borrower to repay the outstanding principal balance of the loan by the May 2021 maturity date. The Company evaluated this loan for impairment and concluded that no impairment charge should be recognized as of December 31, 2021. This conclusion was based in part on: (1) the current estimated fair market value of the underlying collateral property, (2) the estimated value of the contractual right to residual proceeds from the sale of a second residential property and (3) the recourse payment guarantee from two individuals that are the owners of the underlying collateral. The estimated fair market value of the underlying collateral property was determined using the comparable market sales approach.

The Company has made, and may continue to make, modifications to loans, including loans that are in default. Loan terms that may be modified include interest rates, required prepayments, asset release prices, maturity dates, covenants, principal amounts and other loan terms. The terms and conditions of each modification vary based on individual circumstances and will be determined on a case by case basis. The Company's Manager monitors and evaluates each of the Company's loans held for investment and has maintained regular communications with borrowers and sponsors regarding the potential impacts of the COVID-19 pandemic on the Company's loans. Some of the Company's borrowers, in particular, borrowers with properties exposed to the hospitality, student housing and retail industries, indicated that due to the impact of the COVID-19 pandemic, they could be unable to timely execute their business plans, experienced cash flow pressure, and had to temporarily close their businesses or have experienced other negative business consequences. Certain borrowers have requested temporary interest deferral or forbearance or other modifications of their loans. These modifications included deferrals or capitalization of interest, amendments in extension, future funding or performance tests, extension of the maturity date, repurposing of reserves or covenant waivers on loans secured by properties directly or indirectly impacted by the COVID-19 pandemic. Loan modifications during the period were conducted pursuant to the relief granted via the Coronavirus Aid, Relief, and Economic Security Act and therefore are not evaluated for or accounted for as troubled debt restructurings.

For the years ended December 31, 2021 and 2020, the activity in the Company's loan portfolio was as follows ($ in thousands):

Balance at December 31, 2019	$	1,682,498
Initial funding		430,562
Origination fees and discounts, net of costs		(5,778)
Additional funding		107,767
Amortizing payments		(2,728)
Loan payoffs		(304,028)
Loans sold to third parties (1)		(100,504)
Origination fee accretion		7,430
Balance at December 31, 2020	$	1,815,219
Initial funding		1,166,100
Origination fees and discounts, net of costs		(12,192)
Additional funding		93,973
Amortizing payments		(2,586)
Loan payoffs		(654,564)
Origination fee accretion		8,433
Balance at December 31, 2021	$	2,414,383

(1) In July 2020, the Company closed the sale of a senior mortgage loan with outstanding principal of $31.5 million, which was collateralized by a hotel property located in Minnesota, to a third party. In addition, in August 2020, the Company closed the sale of two senior mortgage loans to a third party with outstanding principal of $39.9 million and $29.6 million, respectively, which were collateralized by multifamily properties located in Illinois and Texas, respectively. For the year ended December 31, 2020, the Company recognized an aggregate net realized loss of $4.0 million in the Company's consolidated statements of operations upon the sale of the three senior mortgage loans as the carrying value exceeded the sale prices of the loans. The three senior mortgage loans discussed above were previously classified as held for investment and were sold in order to rebalance and optimize the Company's loan portfolio.

Except as described above, as of December 31, 2021, all loans held for investment were paying in accordance with their contractual terms. As of December 31, 2021, the Company had two loans held for investment on non-accrual status with a carrying value of $45.0 million. As of December 31, 2020, the Company had three loans held for investment on non-accrual status with a carrying value of $67.1 million.

4. CURRENT EXPECTED CREDIT LOSSES

The Company estimates its CECL Reserve primarily using a probability-weighted model that considers the likelihood of default and expected loss given default for each individual loan. Calculation of the CECL Reserve requires loan specific data, which includes capital senior to the Company when the Company is the subordinate lender, changes in net operating income, debt service coverage ratio, loan-to-value, occupancy, property type and geographic location. Estimating the CECL Reserve also requires significant judgment with respect to various factors, including (i) the appropriate historical loan loss reference data, (ii) the expected timing of loan repayments, (iii) calibration of the likelihood of default to reflect the risk characteristics of the Company's floating-rate loan portfolio and (iv) the Company's current and future view of the macroeconomic environment. The Company may consider loan-specific qualitative factors on certain loans to estimate its CECL Reserve. In order to estimate the future expected loan losses relevant to the Company's portfolio, the Company utilizes historical market loan loss data licensed from a third party data service. The third party's loan database includes historical loss data for commercial mortgage-backed securities, or CMBS, issued dating back to 1998, which the Company believes is a reasonably comparable and available data set to its type of loans. The Company utilized macroeconomic data that reflects a current recession; however, the short and long-term economic implications of the COVID-19 pandemic and its financial impact on the Company continue to be highly uncertain. For periods beyond the reasonable and supportable forecast period, the Company reverts back to historical loss data. Management's current estimate of expected credit losses as of December 31, 2021 was consistent with the current estimate of expected credit losses as of December 31, 2020 primarily due to growth in the loan portfolio and other changes to the loan portfolio being offset by forecasted improvement in macroeconomic factors, shorter average remaining loan term and loan payoffs during the year ended December 31, 2021. The CECL Reserve takes into consideration the assumed macroeconomic

impact of the COVID-19 pandemic on CRE properties and is not specific to any loan losses or impairments on the Company's loans held for investment.

As of December 31, 2021, the Company's CECL Reserve for its loans held for investment portfolio is $25.2 million or 95 basis points of the Company's total loans held for investment commitment balance of $2.7 billion and is bifurcated between the CECL reserve (contra-asset) related to outstanding balances on loans held for investment of $23.9 million and a liability for unfunded commitments of $1.3 million. The liability was based on the unfunded portion of the loan commitment over the full contractual period over which the Company is exposed to credit risk through a current obligation to extend credit. Management considered the likelihood that funding will occur, and if funded, the expected credit loss on the funded portion.

Current Expected Credit Loss Reserve for Funded Loan Commitments

Activity related to the CECL Reserve for outstanding balances on the Company's loans held for investment as of and for the years ended December 31, 2021 and 2020 was as follows ($ in thousands):

Balance at December 31, 2019	$	—
Impact of adoption of CECL		4,440
Provision for current expected credit losses		19,164
Write-offs		—
Recoveries		—
Balance at December 31, 2020 [(1)]	$	23,604
Provision for current expected credit losses		335
Write-offs		—
Recoveries		—
Balance at December 31, 2021 [(1)]	$	23,939

____

(1) The CECL Reserve related to outstanding balances on loans held for investment is recorded within current expected credit loss reserve in the Company's consolidated balance sheets.

Current Expected Credit Loss Reserve for Unfunded Loan Commitments

Activity related to the CECL Reserve for unfunded commitments on the Company's loans held for investment as of and for the years ended December 31, 2021 and 2020 was as follows ($ in thousands):

Balance at December 31, 2019	$	—
Impact of adoption of CECL		611
Provision for current expected credit losses		1,021
Write-offs		—
Recoveries		—
Balance at December 31, 2020 [(1)]	$	1,632
Provision for current expected credit losses		(325)
Write-offs		—
Recoveries		—
Balance at December 31, 2021 [(1)]	$	1,307

____

(1) The CECL Reserve related to unfunded commitments on loans held for investment is recorded within other liabilities in the Company's consolidated balance sheets.

The Company continuously evaluates the credit quality of each loan by assessing the risk factors of each loan and assigning a risk rating based on a variety of factors. Risk factors include property type, geographic and local market dynamics, physical condition, leasing and tenant profile, projected cash flow, loan structure and exit plan, loan-to-value ratio, debt service

coverage ratio, project sponsorship, and other factors deemed necessary. Based on a 5-point scale, the Company's loans are rated "1" through "5," from less risk to greater risk, which ratings are defined as follows:

Ratings	Definition
1	Very Low Risk
2	Low Risk
3	Medium Risk
4	High Risk/Potential for Loss: Asset performance is trailing underwritten expectations. Loan at risk of impairment without material improvement to performance
5	Impaired/Loss Likely: A loan that has a significantly increased probability of default and principal loss

The risk ratings are primarily based on historical data as well as taking into account future economic conditions.

As of December 31, 2021, the carrying value, excluding the CECL Reserve, of the Company's loans held for investment within each risk rating by year of origination is as follows ($ in thousands):

	2021	2020	2019	2018	2017	Prior	Total
Risk rating:							
1	$ 28,462	$ —	$ —	$ 9,383	$ —	$ —	$ 37,845
2	403,052	—	147,815	—	—	—	550,867
3	609,751	394,389	273,391	180,213	161,328	49,904	1,668,976
4	35,922	—	2,649	118,124	—	—	156,695
5	—	—	—	—	—	—	—
Total	$ 1,077,187	$ 394,389	$ 423,855	$ 307,720	$ 161,328	$ 49,904	$ 2,414,383

Accrued Interest Receivable

The Company elected not to measure a CECL Reserve on accrued interest receivable due to the Company's policy of writing off uncollectible accrued interest receivable balances in a timely manner. As of December 31, 2021 and 2020, interest receivable of $17.1 million and $11.2 million, respectively, is included within other assets in the Company's consolidated balance sheets and is excluded from the carrying value of loans held for investment. If the Company were to have uncollectible accrued interest receivable, it generally would reverse accrued and unpaid interest against interest income and no longer accrue for these amounts.

5. REAL ESTATE OWNED

On March 8, 2019, the Company acquired legal title to a hotel property located in New York through a deed in lieu of foreclosure. Prior to March 8, 2019, the hotel property collateralized a $38.6 million senior mortgage loan held by the Company that was in maturity default due to the failure of the borrower to repay the outstanding principal balance of the loan by the December 2018 maturity date. In conjunction with the deed in lieu of foreclosure, the Company derecognized the $38.6 million senior mortgage loan and recognized the hotel property as real estate owned. As of the date of the deed in lieu of foreclosure, the Company did not expect to complete a sale of the hotel property within the next twelve months and thus, the hotel property was considered held for use, and was carried at its estimated fair value at acquisition and was presented net of accumulated depreciation and impairment charges. The Company did not recognize any gain or loss on the derecognition of the senior mortgage loan as the fair value of the hotel property of $36.9 million and the net assets held at the hotel property of $1.7 million at acquisition approximated the $38.6 million carrying value of the senior mortgage loan.

On November 8, 2021, the Company entered into a Purchase and Sale Agreement to sell the hotel property to a third party for $40.0 million and the sale is expected to close in the first quarter of 2022. As such, as of December 31, 2021, the hotel property is classified as real estate owned held for sale in the Company's consolidated balance sheets and the Company has ceased depreciating the carrying value of the hotel property. Further, as the net carrying value of the hotel property as of December 31, 2021 is lower than the estimated fair value of the hotel property less costs to sell, the Company has continued to recognize the hotel property at its net carrying value in the Company's consolidated balance sheets and no gain or loss related to the planned sale of the hotel property has been recognized in the Company's consolidated statements of operations for the year ended December 31, 2021. The assets and liabilities of the hotel property are included within other assets and other liabilities, respectively, in the Company's consolidated balance sheets and include items such as cash, restricted cash, trade receivables and payables and advance deposits.

The following table summarizes the Company's real estate owned as of December 31, 2021 and 2020 ($ in thousands):

	As of December 31,	
	2021	2020
Land	$ 10,200	$ 10,200
Buildings and improvements	24,281	24,281
Furniture, fixtures and equipment	4,506	4,362
	38,987	38,843
Less: Accumulated depreciation	(2,385)	(1,560)
Real estate owned, net	$ 36,602	$ 37,283

As of December 31, 2021, no impairment charges have been recognized for real estate owned.

For the years ended December 31, 2021 and 2020, the Company incurred depreciation expense of $825 thousand and $892 thousand, respectively. Depreciation expense is included within expenses from real estate owned in the Company's consolidated statements of operations.

6. DEBT

Financing Agreements

The Company borrows funds, as applicable in a given period, under the Wells Fargo Facility, the Citibank Facility, the CNB Facility, the MetLife Facility and the Morgan Stanley Facility (individually defined below and collectively, the "Secured Funding Agreements"), Notes Payable (as defined below) and the Secured Term Loan (as defined below). The Company refers to the Secured Funding Agreements, Notes Payable and the Secured Term Loan as the "Financing Agreements." The outstanding balance of the Financing Agreements in the table below are presented gross of debt issuance costs. As of December 31, 2021 and 2020, the outstanding balances and total commitments under the Financing Agreements consisted of the following ($ in thousands):

	As of December 31,			
	2021		2020	
	Outstanding Balance	Total Commitment	Outstanding Balance	Total Commitment
Secured Funding Agreements:				
Wells Fargo Facility	$ 399,528	$ 450,000 (1)	$ 336,001	$ 350,000 (1)
Citibank Facility	192,970	325,000	117,506	325,000
CNB Facility	—	75,000 (2)	50,000	50,000 (2)
MetLife Facility	20,648	180,000	104,124	180,000
Morgan Stanley Facility	226,901	250,000	147,921	150,000
Subtotal	$ 840,047	$ 1,280,000	$ 755,552	$ 1,055,000
Notes Payable	$ 51,110	$ 51,755	$ 63,122	$ 84,155
Secured Term Loan	$ 150,000	$ 150,000 (3)	$ 110,000	$ 110,000
Total	$ 1,041,157	$ 1,481,755	$ 928,674	$ 1,249,155

____

(1) The maximum commitment for the Wells Fargo Facility (as defined below) may be increased to up to $500.0 million at the Company's option, subject to the satisfaction of certain conditions, including payment of an upsize fee. In December 2021, the Company elected to increase the maximum commitment for the Wells Fargo Facility from $350.0 million to $450.0 million.

(2) In November 2021, the Company amended the CNB Facility (as defined below) to, among other things, increase the commitment amount from $50.0 million to $75.0 million.
(3) In November 2021, the Company amended the Secured Term Loan (as defined below) to, among other things, increase the commitment amount to $150.0 million.

Some of the Company's Financing Agreements are collateralized by (i) assignments of specific loans, preferred equity or a pool of loans held for investment or loans held for sale owned by the Company, (ii) interests in the subordinated portion of the Company's securitization debt, or (iii) interests in wholly-owned entity subsidiaries that hold the Company's loans held for investment. The Company is the borrower or guarantor under each of the Financing Agreements. Generally, the Company partially offsets interest rate risk by matching the interest index of loans held for investment with the Secured Funding Agreements used to fund them. The Company's Financing Agreements contain various affirmative and negative covenants, including negative pledges, and provisions regarding events of default that are normal and customary for similar financing arrangements.

Wells Fargo Facility

The Company is party to a master repurchase funding facility with Wells Fargo Bank, National Association ("Wells Fargo") (the "Wells Fargo Facility"), which allows the Company to borrow up to $450.0 million. The maximum commitment may be increased to up to $500.0 million at the Company's option, subject to the satisfaction of certain conditions, including payment of an upsize fee. In December 2021, the Company elected to increase the maximum commitment for the Wells Fargo Facility from $350.0 million to $450.0 million. Under the Wells Fargo Facility, the Company is permitted to sell, and later repurchase, certain qualifying senior commercial mortgage loans, A-Notes, pari-passu participations in commercial mortgage loans and mezzanine loans under certain circumstances, subject to available collateral approved by Wells Fargo in its sole discretion. The funding period of the Wells Fargo Facility expires on December 14, 2022, subject to one 12-month extension at the Company's option, which, if exercised, would extend the funding period to December 14, 2023. The initial maturity date of the Wells Fargo Facility is December 14, 2022, subject to three 12-month extensions, each of which may be exercised at the Company's option, subject to the satisfaction of certain conditions, including payment of an extension fee, which, if all three were exercised, would extend the maturity date of the Wells Fargo Facility to December 14, 2025. Advances under the Wells Fargo Facility accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a pricing margin range of 1.50% to 2.75%, subject to certain exceptions. In December 2020, the Company amended the Wells Fargo Facility to, among other things, eliminate the non-utilization fee on the Wells Fargo Facility. Prior to the amendment, the Company incurred a non-utilization fee of 25 basis points per annum on the average daily available balance of the Wells Fargo Facility to the extent less than 75% of the Wells Fargo Facility was utilized. For the year ended December 31, 2021, the Company did not incur a non-utilization fee. For the years ended December 31, 2020 and 2019, the Company incurred a non-utilization fee of $19 thousand and $618 thousand, respectively. The non-utilization fee is included within interest expense in the Company's consolidated statements of operations.

The Wells Fargo Facility contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company's subsidiaries, which are normal and customary for similar repurchase facilities, including the following: (a) limitations on the incurrence of additional indebtedness or liens, (b) limitations on how borrowed funds may be used, (c) limitations on certain distributions and dividend payments in excess of the minimum amount necessary to continue to qualify as a REIT and avoid the payment of income and excise taxes, (d) maintenance of adequate capital, (e) limitations on change of control, (f) maintaining a ratio of total debt to tangible net worth of not more than 4.00 to 1.00, (g) maintaining a ratio of recourse debt to tangible net worth of not more than 3.00 to 1.00, (h) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period to be at least 1.25 to 1.00, (i) maintaining a tangible net worth of at least the sum of (1) approximately $135.5 million, plus (2) 80% of the net proceeds raised in all future equity issuances by the Company and (j) if certain specific debt yield, loan to value or other credit based tests are not met with respect to assets on the Wells Fargo Facility, the Company may be required to repay certain amounts under the Wells Fargo Facility. As of December 31, 2021, the Company was in compliance with all financial covenants of the Wells Fargo Facility.

Citibank Facility

The Company is party to a $325.0 million master repurchase facility with Citibank, N.A. ("Citibank") (the "Citibank Facility"). Under the Citibank Facility, the Company is permitted to sell and later repurchase certain qualifying senior commercial mortgage loans and A-Notes approved by Citibank in its sole discretion. In November 2021, the Company amended the Citibank Facility to extend the initial maturity date to January 13, 2022, subject to two 12-month extensions, each

of which may be exercised at the Company's option assuming no existing defaults under the Citibank Facility and applicable extension fees being paid, which, if both were exercised, would extend the maturity date of the Citibank Facility to December 13, 2023. Advances under the Citibank Facility accrue interest at a per annum rate equal to the sum of one-month LIBOR plus an indicative pricing margin range of 1.50% to 2.25%, subject to certain exceptions. The Company incurs a non-utilization fee of 25 basis points per annum on the average daily available balance of the Citibank Facility to the extent less than 75% of the Citibank Facility is utilized. For the years ended December 31, 2021, 2020 and 2019, the Company incurred a non-utilization fee of $598 thousand, $516 thousand and $388 thousand, respectively. The non-utilization fee is included within interest expense in the Company's consolidated statements of operations.

The Citibank Facility contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company's subsidiaries, which are normal and customary for similar repurchase facilities, including the following: (a) maintaining tangible net worth of at least the sum of (1) 80% of the Company's tangible net worth as of September 30, 2013, plus (2) 80% of the total net capital raised in all future equity issuances by the Company, (b) maintaining liquidity in an amount not less than the greater of (1) $5.0 million or (2) 5% of the Company's recourse indebtedness, not to exceed $10.0 million (provided that in the event the Company's total liquidity equals or exceeds $5.0 million, the Company may satisfy the difference between the minimum total liquidity requirement and the Company's total liquidity with available borrowing capacity), (c) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period to be at least 1.25 to 1.00, (d) maintaining a ratio of total debt to tangible net worth of not more than 4.00 to 1.00, (e) maintaining a ratio of recourse debt to tangible net worth of not more than 3.00 to 1.00 and (f) if certain specific debt yield and loan to value tests are not met with respect to assets on the Citibank Facility, the Company may be required to repay certain amounts under the Citibank Facility. The Citibank Facility also prohibits the Company from amending the management agreement with its Manager in a material respect without the prior consent of the lender. As of December 31, 2021, the Company was in compliance with all financial covenants of the Citibank Facility. See Note 17 included in these consolidated financial statements for a subsequent event related to the Citibank Facility.

CNB Facility

The Company is party to a $75.0 million secured revolving funding facility with City National Bank (the "CNB Facility"). The Company is permitted to borrow funds under the CNB Facility to finance investments and for other working capital and general corporate needs. In March 2021, the Company exercised a 12-month extension option on the CNB Facility to extend the maturity date to March 10, 2022. In November 2021, the Company amended the CNB Facility to, among other things, (1) increase the commitment amount from $50.0 million to $75.0 million and (2) update the interest rate on advances under the CNB Facility to a per annum rate equal to the sum of, at the Company's option, either (a) Daily Simple SOFR ("Secured Overnight Financing Rate," or "SOFR") (with a 0.35% floor) plus 2.65% or (b) a base rate (which is the highest of a prime rate, the federal funds rate plus 0.50%, or Daily Simple SOFR plus 1.00%) plus 1.00%; provided that in no event shall the interest rate be less than 2.65%. Previously the interest rate on advances was a per annum rate equal to the sum of, at the Company's option, either (a) LIBOR for a one, two, three, six or, if available to all lenders, 12-month interest period plus 2.65% or (b) a base rate (which is the highest of a prime rate, the federal funds rate plus 0.50%, or one-month LIBOR plus 1.00%) plus 1.00%. Unless at least 75% of the CNB Facility is used on average, unused commitments under the CNB Facility accrue non-utilization fees at the rate of 0.375% per annum. For the years ended December 31, 2021, 2020 and 2019, the Company incurred a non-utilization fee of $146 thousand, $38 thousand and $136 thousand, respectively. The non-utilization fee is included within interest expense in the Company's consolidated statements of operations.

The CNB Facility contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company's subsidiaries, which are normal and customary for similar financing facilities, including the following: (a) limitations on the incurrence of additional indebtedness or liens, (b) limitations on how borrowed funds may be used, (c) limitations on certain distributions and dividend payments following a default or event of default, (d) limitations on dispositions of assets, (e) maintenance of minimum total asset value by the borrower under the CNB Facility and its subsidiaries and (f) prohibitions of certain change of control events. The agreements governing the CNB Facility also impose certain covenants on the Company, including the following: (i) maintaining a ratio of total debt to tangible net worth of not more than 4.50 to 1.00, (ii) maintaining a tangible net worth of at least 80% of the Company's net worth as of September 30, 2013, plus 80% of the net cash proceeds raised in equity issuances by the Company after March 12, 2014, (iii) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period of at least 1.25 to 1.00, (iv) limitations on mergers, consolidations, transfers of assets and similar transactions and (v) maintaining its status as a REIT. As of December 31, 2021, the Company was in compliance with all financial covenants of the CNB Facility.

MetLife Facility

The Company is party to a $180.0 million revolving master repurchase facility with Metropolitan Life Insurance Company (“MetLife”) (the “MetLife Facility”), pursuant to which the Company may sell, and later repurchase, commercial mortgage loans meeting defined eligibility criteria which are approved by MetLife in its sole discretion. The initial maturity date of the MetLife Facility is August 13, 2022, subject to two 12-month extensions, each of which may be exercised at the Company’s option, subject to the satisfaction of certain conditions, including payment of an extension fee, which, if both were exercised, would extend the maturity date of the MetLife Facility to August 13, 2024. Advances under the MetLife Facility accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 2.50%, subject to certain exceptions. For a period of nine months subsequent to August 2020, the non-utilization fee of 25 basis points per annum on the average daily available balance of the MetLife Facility, which is owed if less than 65% of the MetLife Facility is utilized, was waived. For the years ended December 31, 2021, 2020 and 2019, the Company incurred a non-utilization fee of $162 thousand, $7 thousand and $5 thousand, respectively. The non-utilization fee is included within interest expense in the Company’s consolidated statements of operations.

The MetLife Facility contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company’s subsidiaries, which are normal and customary for similar repurchase facilities, including the following: (a) limitations on the incurrence of additional indebtedness or liens, (b) limitations on how borrowed funds may be used, (c) limitations on certain distributions and dividend payments following a default or event of default and (d) limitations on dispositions of assets. The agreements governing the MetLife Facility also impose certain covenants on the Company, including the following: (i) maintaining a ratio of total debt to tangible net worth of not more than 4.00 to 1.00, (ii) maintaining a ratio of recourse debt to tangible net worth of not more than 3.00 to 1.00, (iii) maintaining a tangible net worth of at least 80% of the Company’s net worth as of September 30, 2013, plus 80% of the net cash proceeds raised in equity issuances by the Company after August 13, 2014, (iv) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period of at least 1.25 to 1.00, and (v) if certain specific debt yield, loan to value or other credit based tests are not met with respect to assets on the MetLife Facility, the Company may be required to repay certain amounts under the MetLife Facility. As of December 31, 2021, the Company was in compliance with all financial covenants of the MetLife Facility.

Morgan Stanley Facility

The Company is party to a $250.0 million master repurchase and securities contract with Morgan Stanley Bank, N.A. (“Morgan Stanley”) (the “Morgan Stanley Facility”). Under the Morgan Stanley Facility, the Company is permitted to sell, and later repurchase, certain qualifying commercial mortgage loans collateralized by retail, office, mixed-use, multifamily, industrial, hospitality, student housing or self-storage properties. Morgan Stanley may approve the mortgage loans that are subject to the Morgan Stanley Facility in its sole discretion. The Morgan Stanley Facility has an accordion feature that provides for a $100.0 million permanent increase in the commitment amount from $150.0 million to $250.0 million, which may be exercised at the Company’s option, subject to the satisfaction of certain conditions, including payment of an upsized commitment fee. In June 2021, the Company exercised the option to increase the commitment amount from $150.0 million to $250.0 million. The initial maturity date of the Morgan Stanley Facility is January 16, 2023, subject to two 12-month extensions, each of which may be exercised at the Company’s option, subject to the satisfaction of certain conditions, including payment of an extension fee, which, if both were exercised, would extend the maturity date of the Morgan Stanley Facility to January 16, 2025. Advances under the Morgan Stanley Facility generally accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a spread ranging from 1.75% to 2.25%, determined by Morgan Stanley, depending upon the mortgage loan sold to Morgan Stanley in the applicable transaction.

The Morgan Stanley Facility contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company’s subsidiaries, which are normal and customary for similar repurchase facilities, including the following: (a) maintaining tangible net worth of at least the sum of (1) 80% of the Company’s tangible net worth as of September 30, 2013, plus (2) 80% of the total net capital raised in all future equity issuances by the Company, (b) maintaining liquidity in an amount not less than the greater of (1) $5.0 million or (2) 5% of the Company’s recourse indebtedness, not to exceed $10.0 million (provided that in the event the Company’s total liquidity equals or exceeds $5.0 million, the Company may satisfy the difference between the minimum total liquidity requirement and the Company’s total liquidity with available borrowing capacity), (c) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period to be at least 1.25 to 1.00, (d) maintaining a ratio of total debt to tangible net worth of not more than 4.00 to 1.00, (e) maintaining a ratio of recourse debt to tangible net worth of not more than 3.00 to 1.00 and (f) if certain specific debt yield and loan to value tests are not met with respect to assets on the Morgan Stanley Facility, the Company may be required to repay certain amounts under

the Morgan Stanley Facility. The Morgan Stanley Facility also prohibits the Company from amending the management agreement with its Manager in a material respect without the prior consent of the lender. As of December 31, 2021, the Company was in compliance with all financial covenants of the Morgan Stanley Facility.

Notes Payable

Certain of the Company’s subsidiaries are party to two separate non-recourse note agreements (the “Notes Payable”) with the lenders referred to therein, consisting of (1) a $28.3 million note that was closed in June 2019, which is secured by a hotel property located in New York that is recognized as real estate owned in the Company’s consolidated balance sheets and (2) a $23.5 million note that was closed in November 2019, which is secured by a $34.6 million senior mortgage loan held by the Company on a multifamily property located in South Carolina.

The maturity date of the $28.3 million note is June 10, 2024, subject to one 6-month extension, which may be exercised at the Company’s option, subject to the satisfaction of certain conditions, which, if exercised, would extend the maturity date to December 10, 2024. The loan may be prepaid at any time subject to the payment of a prepayment fee, if applicable. Initial advances under the $28.3 million note accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 3.00%. If the hotel property that collateralizes the $28.3 million note achieves certain financial performance hurdles, the interest rate on advances will decrease to a per annum rate equal to the sum of one-month LIBOR plus a spread of 2.50%. The $28.3 million loan amount may be increased to up to $30.0 million to fund certain construction costs of improvements at the hotel, subject to the satisfaction of certain conditions and the payment of a commitment fee. As of December 31, 2021, the total outstanding principal balance of the note was $28.3 million.

The initial maturity date of the $23.5 million note is September 5, 2022, subject to two 12-month extensions, each of which may be exercised at the Company’s option, subject to the satisfaction of certain conditions, including payment of an extension fee, which, if both were exercised, would extend the maturity date to September 5, 2024. Advances under the $23.5 million note accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 3.75%. As of December 31, 2021, the total outstanding principal balance of the note was $22.8 million.

Secured Term Loan

The Company and certain of its subsidiaries are party to a $150.0 million Credit and Guaranty Agreement with the lenders referred to therein and Cortland Capital Market Services LLC, as administrative agent and collateral agent for the lenders (the “Secured Term Loan”). In December 2020, the Company exercised a 12-month extension option on the Secured Term Loan to extend the maturity date to December 22, 2021. In March 2021, the Company voluntarily elected to repay $50.0 million of outstanding principal on the Secured Term Loan at par prior to the scheduled maturity as permitted by the contractual terms of the Secured Term Loan. In November 2021, the Company amended the Secured Term Loan to, among other things, (1) increase the commitment amount to $150.0 million, which was fully drawn on the closing date of the amendment, net of an original issue discount equal to 0.50% of the commitment amount, (2) extend the maturity date of the Secured Term Loan to November 12, 2026 and (3) update the interest rate on advances under the Secured Term Loan to the following fixed rates: (i) 4.50% per annum until May 12, 2025, (ii) after May 12, 2025 through November 12, 2025, the interest rate increases 0.125% every three months and (iii) after November 12, 2025 through November 12, 2026, the interest rate increases 0.250% every three months. Prior to the November 2021 amendment, advances under the Secured Term Loan accrued interest at a per annum rate equal to the sum of, at the Company’s option, one, two, three or six-month LIBOR plus a spread of 5.00%. During the 12-month extension period beginning December 22, 2020, the spread on advances under the Secured Term Loan increased every three months by 0.125%, 0.375% and 0.750% per annum, respectively, beginning after the third-month of the extension period. As of December 31, 2021, the total outstanding principal balance of the Secured Term Loan was $150.0 million.

The total original issue discount on the Secured Term Loan represents a discount to the debt cost to be amortized into interest expense using the effective interest method over the term of the Secured Term Loan. For the years ended December 31, 2021, 2020 and 2019, the estimated per annum effective interest rate of the Secured Term Loan, which is equal to LIBOR plus the spread plus the accretion of the original issue discount and associated costs, was 5.2%, 6.4% and 8.0%, respectively.

The Company's obligations under the Secured Term Loan are guaranteed by certain subsidiaries of the Company. Certain subsidiaries of the Company entered into a Pledge and Security Agreement with the collateral agent under the Secured Term Loan, pursuant to which the obligations of the Company and the subsidiary guarantors under the Secured Term Loan are each secured by equity interests in certain of the Company's indirect subsidiaries and other assets. In addition, the Company and certain of its subsidiaries entered into a Negative Pledge Agreement with the collateral agent under the Secured Term Loan,

which prohibits pledging or otherwise encumbering, subject to permitted encumbrances, certain of the assets which were not subject to the Pledge and Security Agreement.

The Secured Term Loan contains various affirmative and negative covenants and provisions regarding events of default that are applicable to the Company and certain of the Company's subsidiaries, which are normal and customary for similar financing agreements, including the following: (a) limitations on the incurrence of additional indebtedness or liens, (b) limitations on how borrowed funds may be used, (c) limitations on certain distributions and dividend payments following a default or event of default, (d) limitations on dispositions of assets and (e) prohibitions of certain change of control events. The agreements governing the Secured Term Loan also impose certain covenants on the Company, including the following: (i) maintaining a fixed charge coverage ratio (expressed as the ratio of EBITDA (net income before net interest expense, income tax expense, depreciation and amortization), as defined, to fixed charges) for the immediately preceding 12-month period ending on the last date of the applicable reporting period to be at least 1.10 to 1.00, (ii) maintaining a ratio of total debt to tangible net worth of not more than 4.50 to 1.00, (iii) maintaining a tangible net worth of at least 80% of the Company's net worth as of September 30, 2021, plus 80% of the net cash proceeds raised in subsequent equity issuances by the Company, (iv) maintaining an asset coverage ratio greater than 115%, (v) maintaining an unencumbered asset ratio greater than 125%, (vi) limitations on mergers, consolidations, transfers of assets and similar transactions, (vii) maintaining its status as a REIT and (viii) maintaining at least 65% of loans held for investment as senior commercial real estate loans, as measured by the average daily outstanding principal balance of all loans held for investment during a fiscal quarter and as adjusted for non-controlling interests. As of December 31, 2021, the Company was in compliance with all financial covenants of the Secured Term Loan.

Financing Agreements Maturities

At December 31, 2021, approximate principal maturities of the Company's Financing Agreements are as follows ($ in thousands):

	Wells Fargo Facility	Citibank Facility	CNB Facility	MetLife Facility	Morgan Stanley Facility	Notes Payable	Secured Term Loan	Total
2022	$ 399,528	$ 192,970	$ —	$ 20,648	$ —	$ 22,835	$ —	$ 635,981
2023	—	—	—	—	226,901	—	—	226,901
2024	—	—	—	—	—	28,275	—	28,275
2025	—	—	—	—	—	—	—	—
2026	—	—	—	—	—	—	150,000	150,000
Thereafter	—	—	—	—	—	—	—	—
	$ 399,528	$ 192,970	$ —	$ 20,648	$ 226,901	$ 51,110	$ 150,000	$ 1,041,157

7. SECURED BORROWINGS

A subsidiary of the Company is party to a secured borrowing arrangement related to a transferred loan that was closed in February 2020. In April 2019, the Company originated a $30.5 million loan on an office property located in North Carolina, which was bifurcated between a $24.4 million senior mortgage loan and a $6.1 million mezzanine loan. In February 2020, the Company transferred its interest in the $24.4 million senior mortgage loan to a third party and retained the $6.1 million mezzanine loan. The Company evaluated whether the transfer of the $24.4 million senior mortgage loan met the criteria in FASB ASC Topic 860, *Transfers and Servicing*, for treatment as a sale – legal isolation, ability of transferee to pledge or exchange the transferred assets without constraint and transfer of effective control – and determined that the transfer did not qualify as a sale and thus, is treated as a financing transaction. As such, the Company did not derecognize the $24.4 million senior mortgage loan asset and recorded a secured borrowing liability in the consolidated balance sheets. The initial maturity date of the $24.4 million secured borrowing is May 5, 2023, subject to one 12-month extension, which may be exercised at the transferee's option, which, if exercised, would extend the maturity date to May 5, 2024. Advances under the $24.4 million secured borrowing accrue interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 2.50%. As of December 31, 2021, the total outstanding principal balance of the secured borrowing was $22.7 million.

In June 2020, the Company originated a $91.8 million senior mortgage loan on a multifamily property located in Florida, which the Company subsequently bifurcated between a $66.9 million senior participation, which accrued interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 2.94% and a $24.9 million subordinated participation, which accrued interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 10.50%. In June 2020, the Company transferred its interest in the $24.9 million subordinated participation to a third party and retained the $66.9 million

senior participation. The Company evaluated whether the transfer of the $24.9 million subordinated participation met the criteria in FASB ASC Topic 860, *Transfers and Servicing*, for treatment as a sale. As the $66.9 million senior participation and the $24.9 million subordinated participation failed to meet the participating interest requirements in FASB ASC Topic 860, *Transfers and Servicing*, since the cash flows from the original $91.8 million senior mortgage loan were not allocated pro rata to the participation holders and there was a subordination of interest amongst the holders, it was determined that the transfer did not qualify as a sale and thus, was treated as a financing transaction. As such, the Company did not derecognize the $24.9 million subordinated participation and recorded a secured borrowing liability in the consolidated balance sheets. In December 2021, the $91.8 million senior mortgage loan was fully repaid and thus, the $24.9 million secured borrowing liability was derecognized.

In June 2020, the Company closed the purchase of a $46.7 million senior mortgage loan on a multifamily property located in Florida, which the Company subsequently bifurcated between a $34.1 million senior participation, which accrued interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 2.94% and a $12.6 million subordinated participation, which accrued interest at a per annum rate equal to the sum of one-month LIBOR plus a spread of 10.50%. In June 2020, the Company transferred its interest in the $12.6 million subordinated participation to a third party and retained the $34.1 million senior participation. The Company evaluated whether the transfer of the $12.6 million subordinated participation met the criteria in FASB ASC Topic 860, *Transfers and Servicing*, for treatment as a sale. As the $34.1 million senior participation and the $12.6 million subordinated participation failed to meet the participating interest requirements in FASB ASC Topic 860, *Transfers and Servicing*, since the cash flows from the original $46.7 million senior mortgage loan were not allocated pro rata to the participation holders and there was a subordination of interest amongst the holders, it was determined that the transfer did not qualify as a sale and thus, was treated as a financing transaction. As such, the Company did not derecognize the $12.6 million subordinated participation and recorded a secured borrowing liability in the consolidated balance sheets. In December 2021, the $46.7 million senior mortgage loan was fully repaid and thus, the $12.6 million secured borrowing liability was derecognized.

8. DERIVATIVE FINANCIAL INSTRUMENTS

The Company uses derivative financial instruments, which includes interest rate swaps and interest rate caps, on certain borrowing transactions to manage its net exposure to interest rate changes and to reduce its overall cost of borrowing. These derivatives may or may not qualify as cash flow hedges under the hedge accounting requirements of FASB ASC Topic 815, *Derivatives and Hedging*. Derivatives not designated as cash flow hedges are not speculative and are used to manage our exposure to interest rate movements. See Note 2 included in these consolidated financial statements for additional discussion of the accounting for designated and non-designated hedges.

The use of derivative financial instruments involves certain risks, including the risk that the counterparties to these contractual arrangements do not perform as agreed. To mitigate this risk, the Company only enters into derivative financial instruments with counterparties that have appropriate credit ratings and are major financial institutions with which the Company and its affiliates may also have other financial relationships.

The following tables detail our outstanding interest rate derivatives that were designated as cash flow hedges of interest rate risk as of December 31, 2021 (notional amount in thousands):

Interest Rate Derivatives	Number of Instruments	Notional Amount	Rate[(1)]	Index	Weighted Average Maturity (Years)
Interest rate swaps	1	$ 700,000	0.2075 %	LIBOR(2)	1.0
Interest rate caps	1	$ 220,000	0.5000 %	LIBOR	1.0

(1) Represents fixed rate for interest rate swaps and strike rate for interest rate caps.
(2) Subject to a 0.00% floor.

The following table summarizes the fair value of our derivative financial instruments ($ in thousands):

	Fair Value of Derivatives in an Asset Position[1] as of		Fair Value of Derivatives in a Liability Position[2] as of	
	December 31, 2021	December 31, 2020	December 31, 2021	December 31, 2020
Derivatives designated as hedging instruments:				
Interest rate derivatives	$ 2,979	—	—	—

(1) Included in other assets in the Company's consolidated balance sheets.
(2) Included in other liabilities in the Company's consolidated balance sheets.

9. COMMITMENTS AND CONTINGENCIES

As further discussed in Note 2, the full extent of the impact of the COVID-19 pandemic on the global economy and the Company's business continues to be uncertain. As of December 31, 2021, there were no contingencies recorded on the Company's consolidated balance sheets as a result of the COVID-19 pandemic, however, if the global pandemic continues and market conditions worsen, it could adversely affect the Company's business, financial condition and results of operations.

As of December 31, 2021 and 2020, the Company had the following commitments to fund various senior mortgage loans, subordinated debt investments, as well as preferred equity investments accounted for as loans held for investment ($ in thousands):

	As of December 31,	
	2021	2020
Total commitments	$ 2,662,853	$ 2,013,993
Less: funded commitments	(2,429,112)	(1,826,241)
Total unfunded commitments	$ 233,741	$ 187,752

The Company from time to time may be a party to litigation relating to claims arising in the normal course of business. As of December 31, 2021, the Company is not aware of any legal claims that could materially impact its business, financial condition or results of operations.

10. STOCKHOLDERS' EQUITY

At the Market Stock Offering Program

On November 22, 2019, the Company entered into an equity distribution agreement (the "Equity Distribution Agreement"), pursuant to which the Company may offer and sell, from time to time, shares of the Company's common stock, par value $0.01 per share, having an aggregate offering price of up to $100.0 million. Subject to the terms and conditions of the Equity Distribution Agreement, sales of common stock, if any, may be made in transactions that are deemed to be an "at the market offering" as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended. During the year ended December 31, 2021, the Company sold an aggregate of 137,237 shares of the Company's common stock under the Equity Distribution Agreement at an average price of $15.68 per share. The sales generated net proceeds of approximately $2.1 million. During the year ended December 31, 2020, the Company did not issue or sell any shares of common stock under the Equity Distribution Agreement.

Equity Offerings

On March 15, 2021, the Company entered into an underwriting agreement (the "March 2021 Underwriting Agreement"), by and among the Company, ACREM, and Morgan Stanley & Co. LLC, Wells Fargo Securities, LLC, and BofA Securities, Inc., as representatives of the several underwriters listed therein (collectively, the "March 2021 Underwriters"). Pursuant to the terms of the March 2021 Underwriting Agreement, the Company agreed to sell, and the March 2021 Underwriters agreed to purchase, subject to the terms and conditions set forth in the March 2021 Underwriting Agreement, an aggregate of 7,000,000 shares of the Company's common stock, par value $0.01 per share. The public offering closed on March 18, 2021 and generated net proceeds of approximately $100.7 million, after deducting transaction expenses.

On June 17, 2021, the Company entered into an underwriting agreement (the "June 2021 Underwriting Agreement"), by and among the Company, ACREM, and Morgan Stanley & Co. LLC, Wells Fargo Securities, LLC, and BofA Securities, Inc., as representatives of the several underwriters listed therein (collectively, the "June 2021 Underwriters"). Pursuant to the terms of the June 2021 Underwriting Agreement, the Company agreed to sell, and the June 2021 Underwriters agreed to purchase, subject to the terms and conditions set forth in the June 2021 Underwriting Agreement, an aggregate of 6,500,000 shares of the Company's common stock, par value $0.01 per share. The public offering closed on June 22, 2021 and generated net proceeds of approximately $101.6 million, after deducting transaction expenses.

Equity Incentive Plan

On April 23, 2012, the Company adopted an equity incentive plan. In April 2018, the Company's board of directors authorized, and in June 2018, the Company's stockholders approved, an amended and restated equity incentive plan that increased the total amount of shares of common stock the Company may grant thereunder to 1,390,000 shares (the "Amended and Restated 2012 Equity Incentive Plan"). Pursuant to the Amended and Restated 2012 Equity Incentive Plan, the Company may grant awards consisting of restricted shares of the Company's common stock, restricted stock units ("RSUs") and/or other equity-based awards to the Company's outside directors, employees of the Manager, officers, ACREM and other eligible awardees under the plan. Any restricted shares of the Company's common stock and RSUs will be accounted for under FASB ASC Topic 718, *Compensation—Stock Compensation*, resulting in stock-based compensation expense equal to the grant date fair value of the underlying restricted shares of common stock or RSUs.

Restricted stock and RSU grants generally vest ratably over a one to four year period from the vesting start date. The grantee receives additional compensation for each outstanding restricted stock or RSU grant, classified as dividends paid, equal to the per-share dividends received by common stockholders.

The following tables summarize the (i) non-vested shares of restricted stock and RSUs and (ii) vesting schedule of shares of restricted stock and RSUs for the Company's directors and officers and employees of the Manager as of December 31, 2021:

Schedule of Non-Vested Share and Share Equivalents

	Restricted Stock Grants—Directors	Restricted Stock Grants—Officers and Employees of the Manager	RSUs—Officers and Employees of the Manager	Total
Balance at December 31, 2020	22,324	68,851	267,507	358,682
Granted	28,280	—	292,495	320,775
Vested	(33,964)	(41,511)	(38,176)	(113,651)
Forfeited	—	(1,967)	(24,665)	(26,632)
Balance at December 31, 2021	16,640	25,373	497,161	539,174

Future Anticipated Vesting Schedule

	Restricted Stock Grants—Directors	Restricted Stock Grants—Officers and Employees of the Manager	RSUs—Officers and Employees of the Manager	Total
2022	12,887	25,373	83,442	121,702
2023	1,668	—	175,508	177,176
2024	1,668	—	146,159	147,827
2025	417	—	92,052	92,469
2026	—	—	—	—
Total	16,640	25,373	497,161	539,174

The following table summarizes the restricted stock and RSU compensation expense included within general and administrative expenses in the Company's consolidated statements of operations, the total fair value of shares vested and the weighted average grant date fair value of the restricted stock and RSUs granted to the Company's directors and officers and employees of the Manager for the years ended December 31, 2021, 2020 and 2019 ($ in thousands):

	For the years ended December 31,								
	2021			2020			2019		
	Restricted Stock and RSU Grants			Restricted Stock and RSU Grants			Restricted Stock and RSU Grants		
	Directors	Officers and Employees of the Manager	Total	Directors	Officers and Employees of the Manager	Total	Directors	Officers and Employees of the Manager	Total
Compensation expense	$ 329	$ 1,611	$ 1,940	$ 319	$ 1,020	$ 1,339	$ 343	$ 1,537	$ 1,880
Total fair value of shares vested (1)	460	1,009	1,469	315	849	1,164	373	939	1,312
Weighted average grant date fair value	403	4,255	4,658	292	2,898	3,190	302	2,527	2,829

(1) Based on the closing price of the Company's common stock on the NYSE on each vesting date.

As of December 31, 2021, 2020 and 2019, the total compensation cost related to non-vested awards not yet recognized totaled $6.0 million, $3.7 million and $3.1 million, respectively, and the weighted average period over which the non-vested awards are expected to be recognized is 2.3 years.

11. EARNINGS PER SHARE

The following information sets forth the computations of basic and diluted earnings per common share for the years ended December 31, 2021, 2020 and 2019 ($ in thousands, except share and per share data):

	For the years ended December 31,		
	2021	2020	2019
Net income attributable to common stockholders	$ 60,460	$ 21,840	$ 36,991
Divided by:			
Basic weighted average shares of common stock outstanding:	42,399,613	32,977,462	28,609,282
Weighted average non-vested restricted stock and RSUs	281,892	219,046	237,359
Diluted weighted average shares of common stock outstanding:	42,681,505	33,196,508	28,846,641
Basic earnings per common share	$ 1.43	$ 0.66	$ 1.29
Diluted earnings per common share	$ 1.42	$ 0.66	$ 1.28

12. INCOME TAX

The Company wholly owns ACRC Lender W TRS LLC, which is a taxable REIT subsidiary ("TRS") formed to issue and hold certain loans intended for sale. The Company also wholly owns ACRC 2017-FL3 TRS LLC, which is a TRS formed to hold a portion of the FL3 CLO Securitization and FL4 CLO Securitization (as defined below), including the portion that generates excess inclusion income. Additionally, the Company wholly owns ACRC WM Tenant LLC, which is a TRS formed to lease from an affiliate the hotel property classified as real estate owned acquired on March 8, 2019. ACRC WM Tenant LLC engaged a third-party hotel management company to operate the hotel under a management contract.

The income tax provision for the Company and the TRSs consisted of the following for the years ended December 31, 2021, 2020 and 2019 ($ in thousands):

	For the years ended December 31,		
	2021	2020	2019
Current	$ 450	$ 82	$ 114
Deferred	—	(99)	99
Excise tax	272	369	302
Total income tax expense, including excise tax	$ 722	$ 352	$ 515

For the years ended December 31, 2021, 2020 and 2019, the Company incurred an expense of $272 thousand, $369 thousand and $302 thousand, respectively, for U.S. federal excise tax. Excise tax represents a 4% tax on the sum of a portion of the Company's ordinary income and net capital gains not distributed during the calendar year (including any distribution declared in the fourth quarter and paid following January) plus any prior year shortfall. If it is determined that an excise tax liability exists for the current year, the Company will accrue excise tax on estimated excess taxable income as such taxable income is earned. The annual expense is calculated in accordance with applicable tax regulations.

The TRSs recognize interest and penalties related to unrecognized tax benefits within income tax expense in the Company's consolidated statements of operations. Accrued interest and penalties, if any, are included within other liabilities in the Company's consolidated balance sheets.

As of December 31, 2021, tax years 2018 through 2021 remain subject to examination by taxing authorities. The Company does not have any unrecognized tax benefits and the Company does not expect that to change in the next 12 months.

13. FAIR VALUE

The Company follows FASB ASC Topic 820-10, *Fair Value Measurement* ("ASC 820-10"), which expands the application of fair value accounting. ASC 820-10 defines fair value, establishes a framework for measuring fair value in accordance with GAAP and expands disclosure requirements for fair value measurements. ASC 820-10 determines fair value to be the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants on the measurement date. ASC 820-10 specifies a hierarchy of valuation techniques based on the inputs used in measuring fair value.

In accordance with ASC 820-10, the inputs used to measure fair value are summarized in the three broad levels listed below:

- Level 1—Quoted prices in active markets for identical assets or liabilities.
- Level 2—Prices are determined using other significant observable inputs. Observable inputs are inputs that other market participants would use in pricing a security. These may include quoted prices for similar securities, interest rates, prepayment speeds, credit risk and others.
- Level 3—Prices are determined using significant unobservable inputs. In situations where quoted prices or observable inputs are unavailable (for example, when there is little or no market activity for an investment at the end of the period), unobservable inputs may be used.

GAAP requires disclosure of fair value information about financial and nonfinancial assets and liabilities, whether or not recognized in the financial statements, for which it is practical to estimate the value. In cases where quoted market prices are not available, fair values are based upon the application of discount rates to estimated future cash flows using market yields, or other valuation methodologies. Any changes to the valuation methodology will be reviewed by the Company's management to ensure the changes are appropriate. The methods used may produce a fair value calculation that is not indicative of net realizable value or reflective of future fair values. Furthermore, while the Company anticipates that the valuation methods are appropriate and consistent with other market participants, the use of different methodologies, or assumptions, to determine the fair value of certain financial and nonfinancial assets and liabilities could result in a different estimate of fair value at the reporting date. The Company uses inputs that are current as of the measurement date, which may fall within periods of market dislocation, during which price transparency may be reduced.

Recurring Fair Value Measurements

The Company is required to record derivative financial instruments at fair value on a recurring basis in accordance with GAAP. The fair value of interest rate derivatives was estimated using a third-party specialist, based on contractual cash flows and observable inputs comprising credit spreads.

The following table summarizes the financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2021:

	Level 1	Level 2	Level 3	Total
Financial assets:				
Interest rate derivatives	$ —	$ 2,979	$ —	$ 2,979
Financial liabilities:				
Interest rate derivatives	$ —	-	$ —	$ —

As of December 31, 2021, the Company did not have any nonfinancial assets or liabilities required to be recorded at fair value on a recurring basis. As of December 31, 2020, the Company did not have any financial and nonfinancial assets or liabilities required to be recorded at fair value on a recurring basis.

Nonrecurring Fair Value Measurements

The Company is required to record real estate owned, a nonfinancial asset, at fair value on a nonrecurring basis in accordance with GAAP. Real estate owned consists of a hotel property that was acquired by the Company on March 8, 2019 through a deed in lieu of foreclosure. See Note 5 included in these consolidated financial statements for more information on

real estate owned. Real estate owned is recorded at fair value at acquisition using Level 3 inputs and is evaluated for indicators of impairment on a quarterly basis. Real estate owned is considered impaired when the sum of estimated future undiscounted cash flows expected to be generated by the real estate owned over the estimated remaining holding period is less than the carrying amount of such real estate owned. Cash flows include operating cash flows and anticipated capital proceeds generated by the real estate owned. An impairment charge is recorded equal to the excess of the carrying value of the real estate owned over the fair value. The fair value of the hotel property at acquisition was estimated using a third-party appraisal, which utilized standard industry valuation techniques such as the income and market approach. When determining the fair value of a hotel, certain assumptions are made including, but not limited to: (1) projected operating cash flows, including factors such as booking pace, growth rates, occupancy, daily room rates, hotel specific operating costs and future capital expenditures; and (2) projected cash flows from the eventual disposition of the hotel based upon the Company's estimation of a hotel specific capitalization rate, hotel specific discount rates and comparable selling prices in the market.

As of December 31, 2021 and 2020, the Company did not have any financial assets or liabilities or nonfinancial liabilities required to be recorded at fair value on a nonrecurring basis.

Financial Assets and Liabilities Not Measured at Fair Value

As of December 31, 2021 and 2020, the carrying values and fair values of the Company's financial assets and liabilities recorded at cost are as follows ($ in thousands):

		As of December 31,			
		2021		2020	
	Level in Fair Value Hierarchy	Carrying Value	Fair Value	Carrying Value	Fair Value
Financial assets:					
Loans held for investment	3	$ 2,414,383	$ 2,408,463	$ 1,815,219	$ 1,800,003
Financial liabilities:					
Secured funding agreements	2	$ 840,047	$ 840,047	$ 755,552	$ 755,552
Notes payable	3	50,358	51,110	61,837	63,122
Secured term loan	3	149,016	150,000	110,000	110,000
Collateralized loan obligation securitization debt (consolidated VIEs)	3	861,188	863,403	443,871	443,467
Secured borrowings	3	22,589	22,715	59,790	60,215

The carrying values of cash and cash equivalents, restricted cash, interest receivable, due to affiliate liability and accrued expenses, which are all categorized as Level 2 within the fair value hierarchy, approximate their fair values due to their short-term nature.

Loans held for investment are recorded at cost, net of unamortized loan fees and origination costs. To determine the fair value of the collateral, the Company may employ different approaches depending on the type of collateral. The Company determined the fair value of loans held for investment based on a discounted cash flow methodology, taking into consideration various factors including capitalization rates, discount rates, leasing, occupancy rates, availability and cost of financing, exit plan, sponsorship, actions of other lenders, and comparable selling prices in the market. The Secured Funding Agreements are recorded at outstanding principal, which is the Company's best estimate of the fair value. The Company determined the fair value of the Notes Payable, Secured Term Loan, collateralized loan obligation ("CLO") securitization debt and Secured Borrowings based on a discounted cash flow methodology, taking into consideration various factors including discount rates, actions of other lenders and comparable market quotes and recent trades for similar products.

14. RELATED PARTY TRANSACTIONS

Management Agreement

The Company is party to a Management Agreement under which ACREM, subject to the supervision and oversight of the Company's board of directors, is responsible for, among other duties, (a) performing all of the Company's day-to-day functions, (b) determining the Company's investment strategy and guidelines in conjunction with the Company's board of directors, (c) sourcing, analyzing and executing investments, asset sales and financing, and (d) performing portfolio management duties. In addition, ACREM has an Investment Committee that oversees compliance with the Company's investment strategy and guidelines, loans held for investment portfolio holdings and financing strategy.

In exchange for its services, ACREM is entitled to receive a base management fee, an incentive fee and expense reimbursements. In addition, ACREM and its personnel may receive grants of equity-based awards pursuant to the Company's Amended and Restated 2012 Equity Incentive Plan and a termination fee, if applicable.

The base management fee is equal to 1.5% of the Company's stockholders' equity per annum, which is calculated and payable quarterly in arrears in cash. For purposes of calculating the base management fee, stockholders' equity means: (a) the sum of (i) the net proceeds from all issuances of the Company's equity securities since inception (allocated on a pro-rata daily basis for such issuances during the fiscal quarter of any such issuance), plus (ii) the Company's retained earnings at the end of the most recently completed fiscal quarter determined in accordance with GAAP (without taking into account any non-cash equity compensation expense incurred in current or prior periods); less (b) (x) any amount that the Company has paid to repurchase the Company's common stock since inception, (y) any unrealized gains and losses and other non-cash items that have impacted stockholders' equity as reported in the Company's consolidated financial statements prepared in accordance with GAAP, and (z) one-time events pursuant to changes in GAAP, and certain non-cash items not otherwise described above, in each case after discussions between ACREM and the Company's independent directors and approval by a majority of the Company's independent directors. As a result, the Company's stockholders' equity, for purposes of calculating the management fee, could be greater or less than the amount of stockholders' equity shown in the Company's consolidated financial statements.

The incentive fee is an amount, not less than zero, equal to the difference between: (a) the product of (i) 20% and (ii) the difference between (A) the Company's Core Earnings (as defined below) for the previous 12-month period, and (B) the product of (1) the weighted average of the issue price per share of the Company's common stock of all of the Company's public offerings of common stock multiplied by the weighted average number of all shares of common stock outstanding including any restricted shares of the Company's common stock, RSUs, or any shares of the Company's common stock not yet issued, but underlying other awards granted under the Company's Amended and Restated 2012 Equity Incentive Plan (see Note 10 included in these consolidated financial statements) in the previous 12-month period, and (2) 8%; and (b) the sum of any incentive fees earned by ACREM with respect to the first three fiscal quarters of such previous 12-month period; provided, however, that no incentive fee is payable with respect to any fiscal quarter unless cumulative Core Earnings for the 12 most recently completed fiscal quarters is greater than zero. "Core Earnings" is defined in the Management Agreement as GAAP net income (loss) computed in accordance with GAAP, excluding non-cash equity compensation expense, the incentive fee, depreciation and amortization (to the extent that any of the Company's target investments are structured as debt and the Company forecloses on any properties underlying such debt), any unrealized gains, losses or other non-cash items recorded in net income (loss) for the period, regardless of whether such items are included in other comprehensive income or loss, or in net income (loss), and one-time events pursuant to changes in GAAP and certain non-cash charges after discussions between ACREM and the Company's independent directors and after approval by a majority of the Company's independent directors. For the years ended December 31, 2021, 2020 and 2019, the Company incurred incentive fees of $2.8 million, $0.8 million and $1.1 million, respectively.

The Company reimburses ACREM at cost for operating expenses that ACREM incurs on the Company's behalf, including expenses relating to legal, financial, accounting, servicing, due diligence and other services, expenses in connection with the origination and financing of the Company's investments, communications with the Company's stockholders, information technology systems, software and data services used for the Company, travel, complying with legal and regulatory requirements, taxes, insurance maintained for the benefit of the Company as well as all other expenses actually incurred by ACREM that are reasonably necessary for the performance by ACREM of its duties and functions under the Management Agreement. Ares Management, from time to time, incurs fees, costs and expenses on behalf of more than one investment vehicle. To the extent such fees, costs and expenses are incurred for the account or benefit of more than one fund, each such investment vehicle, including the Company, will typically bear an allocable portion of any such fees, costs and expenses in proportion to the size of its investment in the activity or entity to which such expense relates (subject to the terms of each fund's governing documents) or in such other manner as Ares Management considers fair and equitable under the circumstances, such as the relative fund size or capital available to be invested by such investment vehicles. Where an investment vehicle's

governing documents do not permit the payment of a particular expense, Ares Management will generally pay such investment vehicle's allocable portion of such expense. In addition, the Company is responsible for its proportionate share of certain fees and expenses, including due diligence costs, as determined by ACREM and Ares Management, including legal, accounting and financial advisor fees and related costs, incurred in connection with evaluating and consummating investment opportunities, regardless of whether such transactions are ultimately consummated by the parties thereto.

The Company will not reimburse ACREM for the salaries and other compensation of its personnel, except for the allocable share of the salaries and other compensation of the Company's (a) Chief Financial Officer, based on the percentage of his time spent on the Company's affairs and (b) other corporate finance, tax, accounting, internal audit, legal, risk management, operations, compliance and other non-investment professional personnel of ACREM or its affiliates who spend all or a portion of their time managing the Company's affairs based on the percentage of their time spent on the Company's affairs. The Company is also required to pay its pro-rata portion of rent, telephone, utilities, office furniture, equipment, machinery and other office, internal and overhead expenses of ACREM and its affiliates that are required for the Company's operations.

Certain of the Company's subsidiaries, along with the Company's lenders under certain of the Company's Secured Funding Agreements, as well as under the CLO transaction have entered into various servicing agreements with ACREM's subsidiary servicer, Ares Commercial Real Estate Servicer LLC ("ACRES"). The Company's Manager will specially service, as needed, certain of the Company's investments. Effective May 1, 2012, ACRES agreed that no servicing fees pursuant to these servicing agreements would be charged to the Company or its subsidiaries by ACRES or the Manager for so long as the Management Agreement remains in effect, but that ACRES will continue to receive reimbursement for overhead related to servicing and operational activities pursuant to the terms of the Management Agreement.

The term of the Management Agreement ends on May 1, 2022, with automatic one-year renewal terms thereafter. Except under limited circumstances, upon a termination of the Management Agreement, the Company will pay ACREM a termination fee equal to three times the average annual base management fee and incentive fee received by ACREM during the 24-month period immediately preceding the most recently completed fiscal quarter prior to the date of termination, each as described above.

The following table summarizes the related party costs incurred by the Company for the years ended December 31, 2021, 2020 and 2019 and amounts payable to the Company's Manager as of December 31, 2021 and 2020 ($ in thousands):

	Incurred			Payable	
	For the years ended December 31,			As of December 31,	
	2021	2020	2019	2021	2020
Affiliate Payments					
Management fees	$ 9,384	$ 7,323	$ 6,311	$ 2,613	$ 1,854
Incentive fees	2,752	836	1,052	830	533
General and administrative expenses	3,016	3,653	3,026	703	762
Direct costs (1)	9	100	192	10	1
Total	$ 15,161	$ 11,912	$ 10,581	$ 4,156	$ 3,150

____

(1) For the years ended December 31, 2021, 2020 and 2019, direct costs incurred are included within general and administrative expenses in the Company's consolidated statements of operations.

Investments in Loans

From time to time, the Company may co-invest with other investment vehicles managed by Ares Management or its affiliates, including the Manager, and their portfolio companies, including by means of splitting investments, participating in investments or other means of syndication of investments. For such co-investments, the Company expects to act as the administrative agent for the holders of such investments provided that the Company maintains a majority of the aggregate investment. No fees will be received by the Company for performing such service. The Company will be responsible for its pro-rata share of costs and expenses for such co-investments, including due diligence costs for transactions which fail to close. The Company's investment in such co-investments are made on a pari-passu basis with the other Ares managed investment vehicles and the Company is not obligated to provide, nor has it provided, any financial support to the other Ares managed investment vehicles. As such, the Company's risk is limited to the carrying value of its investment and the Company recognizes only the

carrying value of its investment in its consolidated balance sheets. As of December 31, 2021 and 2020, the total outstanding principal balance for co-investments held by the Company was $158.3 million and $45.1 million, respectively.

Loan Purchases From Affiliate

An affiliate of the Company's Manager maintains a $200 million real estate debt warehouse investment vehicle (the "Ares Warehouse Vehicle") that holds Ares Management originated commercial real estate loans, which are made available to purchase by other investment vehicles, including the Company and other Ares Management managed investment vehicles. From time to time, the Company may purchase loans from the Ares Warehouse Vehicle. The Company's Manager will approve the purchase of such loans only on terms, including the consideration to be paid, that are determined by the Company's Manager in good faith to be appropriate for the Company once the Company has sufficient liquidity. The Company is not obligated to purchase any loans originated by the Ares Warehouse Vehicle. In addition, from time to time, the Company may purchase loans, including participations in loans, from other Ares Management managed investment vehicles. Loans purchased by the Company from the Ares Warehouse Vehicle or other Ares Management managed investment vehicles are purchased at fair value as determined by an independent third-party valuation expert and are subject to approval by a majority of the Company's independent directors.

In January 2021, the Company purchased a $105.5 million senior mortgage loan on an office property located in Illinois from the Ares Warehouse Vehicle. At the January 2021 purchase date, the outstanding principal balance was $103.6 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a $5.6 million senior mortgage loan on a self storage property located in Illinois from the Ares Warehouse Vehicle. At the January 2021 purchase date, the outstanding principal balance was $5.4 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a fully funded $6.4 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a fully funded $4.4 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a fully funded $7.0 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a fully funded $10.8 million senior mortgage loan on a self storage property located in Florida from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In January 2021, the Company purchased a $6.5 million senior mortgage loan on a self storage property located in Missouri from the Ares Warehouse Vehicle. At the January 2021 purchase date, the outstanding principal balance was $5.9 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In May 2021, the Company purchased a $100.7 million senior mortgage loan on an industrial property located in Illinois from the Ares Warehouse Vehicle. At the May 2021 purchase date, the outstanding principal balance was $62.1 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In June 2021, the Company purchased a fully funded $40.5 million senior mortgage loan on a portfolio of self storage properties located in New Jersey from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In June 2021, the Company purchased a $44.7 million senior mortgage loan on an industrial property located in New Jersey from the Ares Warehouse Vehicle. At the June 2021 purchase date, the outstanding principal balance was $23.2 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In July 2021, the Company purchased a $78.3 million pari-passu participation in a $227.1 million senior mortgage loan on a mixed use property located in New York from an Ares Management managed investment vehicle. At the July 2021

purchase date, the outstanding principal balance was $75.0 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In August 2021, the Company purchased an $85.0 million pari-passu note in a senior mortgage loan on an office property located in North Carolina from an Ares Management managed investment vehicle. At the August 2021 purchase date, the outstanding principal balance was $64.6 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In September 2021, the Company purchased a $26.0 million pari-passu participation in a $115.7 million senior mortgage loan on an office property located in Arizona from the Ares Warehouse Vehicle. At the September 2021 purchase date, the outstanding principal balance of the purchased participation was $17.4 million, which is included within loans held for investment in the Company's consolidated balance sheets. At origination, the Arizona office senior mortgage loan was bifurcated between an $89.7 million senior participation, which was originated by the Company, and a $26.0 million senior participation, which was originated by the Ares Warehouse Vehicle.

In December 2021, the Company purchased a fully funded $67.0 million senior mortgage loan on a multifamily property and an office property both located in South Carolina from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In December 2021, the Company purchased a fully funded $23.1 million senior mortgage loan on a multifamily property located in Washington from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

In December 2021, the Company purchased a $30.9 million senior mortgage loan on an industrial property located in Texas from the Ares Warehouse Vehicle. At the December 2021 purchase date, the outstanding principal balance was $25.3 million, which is included within loans held for investment in the Company's consolidated balance sheets.

In December 2021, the Company purchased a fully funded $25.5 million senior mortgage loan on an industrial property located in Florida from the Ares Warehouse Vehicle, which is included within loans held for investment in the Company's consolidated balance sheets.

15. DIVIDENDS AND DISTRIBUTIONS

The following table summarizes the Company's dividends declared during the years ended December 31, 2021, 2020 and 2019 ($ in thousands, except per share data):

Date Declared	Record Date	Payment Date	Per Share Amount	Total Amount
November 3, 2021	December 31, 2021	January 19, 2022	$ 0.35 (1)	$ 16,674
July 30, 2021	September 30, 2021	October 15, 2021	0.35 (1)	16,524
May 4, 2021	June 30, 2021	July 15, 2021	0.35 (1)	16,528
February 17, 2021	March 31, 2021	April 15, 2021	0.35 (1)	14,248
Total cash dividends declared for the year ended December 31, 2021			$ 1.40	$ 63,974
December 15, 2020	December 30, 2020	January 15, 2021	$ 0.33	$ 11,124
September 16, 2020	September 30, 2020	October 15, 2020	0.33	11,072
June 19, 2020	June 30, 2020	July 15, 2020	0.33	11,072
February 20, 2020	March 31, 2020	April 15, 2020	0.33	11,057
Total cash dividends declared for the year ended December 31, 2020			$ 1.32	$ 44,325
November 8, 2019	December 30, 2019	January 15, 2020	$ 0.33	$ 9,546
July 26, 2019	September 30, 2019	October 15, 2019	0.33	9,526
May 1, 2019	June 28, 2019	July 16, 2019	0.33	9,527
February 21, 2019	March 29, 2019	April 16, 2019	0.33	9,520
Total cash dividends declared for the year ended December 31, 2019			$ 1.32	$ 38,119

____

(1) Consists of a regular cash dividend of $0.33 and a supplemental cash dividend of $0.02.

16. VARIABLE INTEREST ENTITIES

Consolidated VIEs

As discussed in Note 2, the Company evaluates all of its investments and other interests in entities for consolidation, including its investments in the CLO Securitizations (as defined below), which are considered to be variable interests in VIEs.

CLO Securitizations

On January 11, 2019, ACRE Commercial Mortgage 2017-FL3 Ltd. (the "FL3 Issuer") and ACRE Commercial Mortgage 2017-FL3 LLC (the "FL3 Co-Issuer"), both wholly-owned indirect subsidiaries of the Company, entered into an Amended and Restated Indenture (the "FL3 Amended Indenture") with Wells Fargo Bank, National Association, as advancing agent and note administrator, and Wilmington Trust, National Association, as trustee, which governs the approximately $504.1 million principal balance of secured floating rate notes (the "FL3 Notes") issued by the FL3 Issuer and $52.9 million of preferred equity in the FL3 Issuer (the "FL3 CLO Securitization"). The FL3 Amended Indenture amends and restates, and replaces in its entirety, the indenture for the CLO securitization issued in March 2017, which governed the issuance of approximately $308.8 million principal balance of secured floating rate notes and $32.4 million of preferred equity in the FL3 Issuer.

As of December 31, 2021, the FL3 Notes were collateralized by interests in a pool of 16 mortgage assets having a total principal balance of $451.6 million (the "FL3 Mortgage Assets") that were closed by a wholly-owned subsidiary of the Company and approximately $105.4 million of receivables related to repayments of outstanding principal on previous mortgage assets. As of December 31, 2020, the FL3 Notes were collateralized by interests in a pool of 15 mortgage assets having a total principal balance of approximately $550.6 million that were closed by a wholly-owned subsidiary of the Company and

approximately $6.4 million of receivables related to repayments of outstanding principal on previous mortgage assets. On April 13, 2021, the FL3 Issuer and the FL3 Co-Issuer entered into a First Supplement to Amended and Restated Indenture (the "2021 Amended Indenture") with Wells Fargo Bank, National Association, as advancing agent and note administrator, and Wilmington Trust, National Association, as trustee, which governs the FL3 CLO Securitization. The purpose of the 2021 Amended Indenture was to, among other things, extend the reinvestment period to March 31, 2024. During the reinvestment period, the Company may direct the FL3 Issuer to acquire additional mortgage assets meeting applicable reinvestment criteria using the principal repayments from the FL3 Mortgage Assets, subject to the satisfaction of certain conditions, including receipt of a Rating Agency Confirmation and investor approval of the new mortgage assets.

The contribution of the FL3 Mortgage Assets to the Issuer is governed by a Mortgage Asset Purchase Agreement between the Seller and the FL3 Issuer, and acknowledged by the Company solely for purposes of confirming its status as a REIT, in which the Seller made certain customary representations, warranties and covenants.

In connection with the securitization, the FL3 Issuer and FL3 Co-Issuer offered and issued the following classes of Notes: Class A, Class A-S, Class B, Class C and Class D Notes (collectively, the "FL3 Offered Notes") to a third party. The Company retained (through one of its wholly-owned subsidiaries) approximately $58.5 million of the FL3 Notes and all of the $52.9 million of preferred equity in the FL3 Issuer, which totaled $111.4 million. The Company, as the holder of the subordinated FL3 Notes and all of the preferred equity in the FL3 Issuer, has the obligation to absorb losses of the CLO, since the Company has a first loss position in the capital structure of the CLO.

On January 28, 2021, ACRE Commercial Mortgage 2021-FL4 Ltd. (the "FL4 Issuer") and ACRE Commercial Mortgage 2021-FL4 LLC (the "FL4 Co-Issuer"), both wholly owned indirect subsidiaries of the Company, entered into an Indenture (the "FL4 Indenture") with ACRC Lender LLC, a wholly owned subsidiary of the Company (the "Seller"), as advancing agent, Wells Fargo Bank, National Association, as note administrator, and Wilmington Trust, National Association, as trustee, which governs the issuance of approximately $603.0 million principal balance secured floating rate notes (the "FL4 Notes") and $64.3 million of preferred equity in the FL4 Issuer (the "FL4 CLO Securitization"). For U.S. federal income tax purposes, the FL4 Issuer and FL4 Co-Issuer are disregarded entities.

As of December 31, 2021, the FL4 Notes were collateralized by interests in a pool of 17 mortgage assets having a total principal balance of approximately $522.8 million (the "FL4 Mortgage Assets") that were closed by a wholly-owned subsidiary of the Company and approximately $23.2 million of receivables related to repayments of outstanding principal on previous mortgage assets. During the period ending in April 2024 (the "Companion Participation Acquisition Period"), the FL4 Issuer may use certain principal proceeds from the FL4 Mortgage Assets to acquire additional funded pari-passu participations related to the FL4 Mortgage Assets that meet certain acquisition criteria.

The sale of the FL4 Mortgage Assets to the FL4 Issuer is governed by a FL4 Mortgage Asset Purchase Agreement between the Seller and the FL4 Issuer, and acknowledged by the Company solely for purposes of confirming its status as a REIT, in which the Seller made certain customary representations, warranties and covenants.

In connection with the FL4 CLO Securitization, the FL4 Issuer and FL4 Co-Issuer offered and issued the following classes of FL4 Notes to third party investors: Class A, Class A-S, Class B, Class C, Class D and Class E Notes (collectively, the "FL4 Offered Notes"). A wholly owned subsidiary of the Company retained approximately $62.5 million of the FL4 Notes and all of the $64.3 million of preferred equity in the FL4 Issuer, which totaled $126.8 million. The Company, as the holder of the subordinated FL4 Notes and all of the preferred equity in the FL4 Issuer, has the obligation to absorb losses of the FL4 CLO Securitization, since the Company has a first loss position in the capital structure of the FL4 CLO Securitization. During the year ended December 31, 2021, the Company paid down $121.2 million of the FL4 Offered Notes.

The FL3 CLO Securitization and the FL4 CLO Securitization are collectively referred to as the "CLO Securitizations." As the directing holder of the CLO Securitizations, the Company has the ability to direct activities that could significantly impact the CLO Securitizations' economic performance. ACRES is designated as special servicer of the CLO Securitizations and has the power to direct activities during the loan workout process on defaulted and delinquent loans, which is the activity that most significantly impacts the CLO Securitizations' economic performance. ACRES did not waive the special servicing fee, and the Company pays its overhead costs. If an unrelated third party had the right to unilaterally remove the special servicer, then the Company would not have the power to direct activities that most significantly impact the CLO Securitizations' economic performance. In addition, there were no substantive kick-out rights of any unrelated third party to remove the special servicer without cause. The Company's subsidiaries, as directing holders, have the ability to remove the special servicer without cause. Based on these factors, the Company is determined to be the primary beneficiary of each of the CLO Securitizations; thus, the CLO Securitizations are consolidated into the Company's consolidated financial statements.

The CLO Securitizations are consolidated in accordance with FASB ASC Topic 810 and are structured as pass through entities that receive principal and interest on the underlying collateral and distributes those payments to the note holders, as applicable. The assets and other instruments held by the CLO Securitizations are restricted and can only be used to fulfill the obligations of the respective CLO Securitizations. Additionally, the obligations of the CLO Securitizations do not have any recourse to the general credit of any other consolidated entities, nor to the Company as the primary beneficiary.

The inclusion of the assets and liabilities of the CLO Securitizations of which the Company is deemed the primary beneficiary has no economic effect on the Company. The Company's exposure to the obligations of the CLO Securitizations are generally limited to its investment in the entity. The Company is not obligated to provide, nor has it provided, any financial support for the consolidated structures. As such, the risk associated with the Company's involvement in the CLO Securitizations are limited to the carrying value of its investment in each of the entities. As of December 31, 2021, the Company's maximum risk of loss was $238.2 million, which represents the carrying value of its investments in the CLO Securitizations.

17. SUBSEQUENT EVENTS

The Company's management has evaluated subsequent events through the date of issuance of the consolidated financial statements included herein. There have been no subsequent events that occurred during such period that would require disclosure in this Form 10-K or would be required to be recognized in the consolidated financial statements as of and for the year ended December 31, 2021, except as disclosed below.

On January 13, 2022, the Company amended the Citibank Facility to, among other things, extend the initial maturity date and funding availability period to January 13, 2025, subject to two 12-month extensions, each of which may be exercised at the Company's option assuming no existing defaults under the Citibank Facility and applicable extension fees being paid, which, if both were exercised, would extend the maturity date of the Citibank Facility to January 13, 2027. The amendment also modified the interest rate provisions in the Citibank Facility such that advances under the Citibank Facility in connection with new loans pledged to the Citibank Facility will utilize term SOFR or a SOFR average, at the election of the Company.

On February 10, 2022, ACRC Lender C LLC, a subsidiary of the Company and the Company, as guarantor, entered into a second amendment to the Second Amended and Restated Substitute Guaranty related to the Citibank Facility. The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender MS LLC, a subsidiary of the Company and the Company, as guarantor, entered into an amendment to the Guaranty and Indemnity related to the Morgan Stanley Facility. The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, the Company, as guarantor, entered into a second amendment to the Guaranty related to the MetLife Facility. The purpose of the amendment is to, among other things, (i) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (ii) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 10, 2022, ACRC Lender W LLC and ACRC Lender W TRS LLC (collectively, "ACRC Lender W"), each a subsidiary of the Company, and the Company, as guarantor, entered into (i) the Third Amended and Restated Master Repurchase and Securities Contract and (ii) the Second Amended and Restated Guarantee, each with Wells Fargo. The purpose of the amendments are to, among other things, (a) modify the interest rate provisions in the Wells Fargo Facility such that financings under the Wells Fargo Facility in connection with new loans pledged to the Wells Fargo Facility will utilize term SOFR or a SOFR average, as agreed between ACRC Lender W and Wells Fargo, (b) increase the guarantor's permitted ratio of indebtedness to tangible net worth to not more than 4.5:1 and (c) remove the guarantor's financial covenant that limited recourse indebtedness.

On February 14, 2022, the Company originated and fully funded a $5.9 million senior mortgage loan on an industrial property located in Florida. The loan has a per annum interest rate of LIBOR plus 5.90%.

On February 14, 2022, the Company originated and fully funded a $4.7 million senior mortgage loan on an industrial property located in Florida. The loan has a per annum interest rate of LIBOR plus 5.75%.

The Company's Board of Directors declared a regular cash dividend of $0.33 per common share and a supplemental cash dividend of $0.02 per common share for the first quarter of 2022. The first quarter 2022 and supplemental cash dividends will be payable on April 14, 2022 to common stockholders of record as of March 31, 2022.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ARES COMMERCIAL REAL ESTATE CORPORATION

Dated: February 15, 2022 By: /s/ Bryan Donohoe
Bryan Donohoe
Chief Executive Officer
(Principal Executive Officer)

Dated: February 15, 2022 By: /s/ Tae-Sik Yoon
Tae-Sik Yoon
Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Dated: February 15, 2022 By: /s/ Bryan Donohoe
Bryan Donohoe
Chief Executive Officer
(Principal Executive Officer)

Dated: February 15, 2022 By: /s/ Tae-Sik Yoon
Tae-Sik Yoon
Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

Dated: February 15, 2022 By: /s/ William S. Benjamin
William S. Benjamin
Chairman, Director

Dated: February 15, 2022 By: /s/ Rand S. April
Rand S. April
Director

Dated: February 15, 2022 By: /s/ Michael J Arougheti
Michael J Arougheti
Director

Dated: February 15, 2022 By: /s/ Caroline E. Blakely
Caroline E. Blakely
Director

Dated: February 15, 2022 By: /s/ William L. Browning
William L. Browning
Director

Dated: February 15, 2022 By: /s/ Edmond N. Moriarty, III
Edmond N. Moriarty, III
Director

Dated: February 15, 2022 By: /s/ Rebecca J. Parekh
Rebecca J. Parekh
Director

Dated: February 15, 2022 By: /s/ James E. Skinner
James E. Skinner
Director

Exhibit 10.60

SECOND AMENDMENT TO SECOND AMENDED AND RESTATED SUBSTITUTE GUARANTY AGREEMENT

THIS SECOND AMENDMENT TO SECOND AMENDED AND RESTATED SUBSTITUTE GUARANTY AGREEMENT (this "Amendment"), dated as of February 10, 2022 is made and entered into by and among **ARES COMMERCIAL REAL ESTATE CORPORATION**, a Maryland corporation ("Guarantor"), **CITIBANK, N.A.**, a national banking association (together with its successors and/or assigns, "Buyer"), and for the purpose of acknowledging and agreeing to the provision set forth in Section 5 hereof, **ACRC LENDER C LLC**, a Delaware limited liability company ("Seller").

W I T N E S S E T H:

WHEREAS, Seller and Buyer have entered into that certain Master Repurchase Agreement, dated as of December 8, 2014, as amended by that certain First Amendment to Master Repurchase Agreement, dated as of July 13, 2016, that certain Second Amendment to Master Repurchase Agreement, dated as of July 13, 2016, that certain Third Amendment to Master Repurchase Agreement, dated as of December 8, 2016, that certain Fourth Amendment to Master Repurchase Agreement, dated as of December 10, 2018, that certain Amended and Restated Fourth Amendment to Master Repurchase Agreement, dated as of December 13, 2018 (the "Amended and Restated Fourth MRA Amendment"), that certain Fifth Amendment to Master Repurchase Agreement, dated as of November 30, 2021, and that certain Sixth Amendment to Master Repurchase Agreement, dated as of January 13, 2022 (the foregoing collectively, as so amended and as the same may be further amended, restated, supplemented or otherwise modified and in effect from time to time, the "Repurchase Agreement");

WHEREAS, in connection with the Amended and Restated Fourth MRA Amendment, Guarantor entered into that certain Second Amended and Restated Substitute Guaranty Agreement, dated as of December 13, 2018, as amended by that certain First Amendment to Second Amended and Restated Substitute Guaranty Agreement, dated as of July 24, 2019 (as the same may be further amended, restated, supplemented or otherwise modified and in effect from time to time, the "Guaranty");

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Guaranty;

WHEREAS, Guarantor, Seller and Buyer desire to modify certain terms and provisions of the Guaranty as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Guarantor and Buyer hereby agree as follows, and Seller acknowledges and agrees as to the provisions set forth in Section 5, in each case as of the date hereof:

1. Modification of Guaranty. Clauses (d) and (e) of Section 11.7 of the Guaranty are hereby deleted in their entirety and replaced with the following:

"(d) [RESERVED]; or

(e) *Maximum Debt to Equity Ratio*. At the end of each Test Period while any Transactions remain outstanding, the ratio of Guarantor's Indebtedness to Guarantor's

Tangible Net Worth to be more than 4.00 to 1.00. In the event that (x) Guarantor has entered into amendments of its maximum leverage ratio covenants with each of the other repurchase buyers or lenders under all Third Party Agreements (as defined below) to which Guarantor or any Subsidiary of Guarantor is a party or with respect to which Guarantor is obligated (either as a primary or secondary obligor) and which contain a maximum leverage ratio covenant as to Guarantor that corresponds or is substantially similar to the covenant in this clause (e), and (y) in all such amendments, Guarantor's maximum leverage ratio covenant has been modified to provide for a maximum debt to equity ratio of 4.50 to 1.00, then, Guarantor shall give Buyer prompt notice thereof and, effective as of the date upon which Guarantor has entered into such amendments of its maximum leverage ratio covenants with each of the other repurchase buyers or lenders (the "Covenant Modification Effective Date"), the covenant in this clause (e) shall automatically be deemed to be modified to reflect that the ratio of Guarantor's Indebtedness to Guarantor's Tangible Net Worth at the end of each Test Period may not exceed 4.50 to 1.00; provided that, after the Covenant Modification Effective Date, in the event that Guarantor agrees to amend any of its maximum leverage ratio covenants under any Third Party Agreements to be more restrictive than, or Guarantor or any Subsidiary of Guarantor enters into a new Third Party Agreement which has a maximum leverage ratio covenant that is more restrictive as to Guarantor than, the covenant in this clause (e) as modified by the foregoing, Guarantor shall promptly notify Buyer of such more restrictive maximum leverage ratio covenant and in the sole discretion of Buyer the covenant in this clause (e) shall automatically be deemed to be modified to reflect such more restrictive maximum leverage ratio covenant."

2. Reaffirmation of Guaranty. Guarantor has executed this Amendment for the purpose of acknowledging and agreeing that, notwithstanding the execution and delivery of this Amendment and the amendment of the Guaranty hereunder, all of Guarantor's obligations under the Guaranty remain in full force and effect and the same are hereby irrevocably and unconditionally ratified and confirmed by Guarantor in all respects.

3. Conditions Precedent. This Amendment and its provisions shall become effective upon the execution and delivery of this Amendment by a duly authorized officer of each of Seller, Buyer and Guarantor.

4. Agreement Regarding Expenses. Seller agrees to pay Buyer's reasonable out of pocket expenses (including reasonable legal fees) incurred in connection with the preparation and negotiation of this Amendment promptly after Buyer or Buyer's counsel gives Seller an invoice for such expenses.

5. Full Force and Effect. Except as expressly modified hereby, all of the terms, covenants and conditions of the Guaranty and the other Transaction Documents remain unmodified and in full force and effect and are hereby ratified and confirmed by Seller. Any inconsistency between this Amendment and the Guaranty (as it existed before this Amendment) shall be resolved in favor of this Amendment, whether or not this Amendment specifically modifies the particular provision(s) in the Guaranty inconsistent with this Amendment. All references to the "Guaranty" in the Repurchase Agreement or in any of the other Transaction Documents shall mean and refer to the Guaranty as modified and amended hereby.

6. No Waiver. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Buyer under the Repurchase

Agreement, the Guaranty, any of the other Transaction Documents or any other document, instrument or agreement executed and/or delivered in connection therewith.

7. **Headings**. Each of the captions contained in this Amendment are for the convenience of reference only and shall not define or limit the provisions hereof.

8. **Counterparts**. This Amendment may be executed in any number of counterparts, and all such counterparts shall together constitute the same agreement. Signatures delivered by email (in PDF format) shall be considered binding with the same force and effect as original signatures.

9. **Governing Law.** This Amendment shall be governed in accordance with the terms and provisions of Section 17.1 of the Guaranty.

[No Further Text on this Page; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized representatives as of the day and year first above written.

BUYER:
CITIBANK, N.A.

By: /s/ Richard Schlenger
Name: Richard Schlenger
Title: Authorized Signatory

[SIGNATURES CONTINUE ON NEXT PAGE]

GUARANTOR:
ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation

By:	/s/ Elaine McKay
Name:	Elaine McKay
Title:	Vice President

[SIGNATURES CONTINUE ON NEXT PAGE]

[Signature Page to Second Amendment to Second Amended and Restated Substitute Guaranty Agreement]

SELLER:
ACRC LENDER C LLC,
a Delaware limited liability company

By: /s/ Elaine McKay
Name: Elaine McKay
Title: Vice President

[Signature Page to Second Amendment to Second Amended and Restated Substitute Guaranty Agreement]

AMENDMENT
TO PARENT GUARANTY AND INDEMNITY

THIS AMENDMENT TO PARENT GUARANTY AND INDEMNITY (this "Amendment"), dated as of February 10, 2022, is entered into by and among MORGAN STANLEY BANK, N.A., a national banking association, as buyer (together with its successors and assigns, "Buyer"), ACRC LENDER MS LLC, a Delaware limited liability company, as seller ("Seller"), and ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation, as guarantor ("Guarantor").

RECITALS

WHEREAS, Buyer and Seller are parties to that certain Master Repurchase and Securities Contract Agreement, dated as of January 16, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "Repurchase Agreement");

WHEREAS, Guarantor provided that certain Parent Guaranty and Indemnity, dated as of January 16, 2020 (the "Original Guaranty") for the benefit of the Buyer; and

WHEREAS, Seller and Guarantor have requested certain amendments and modifications be made to the Original Guaranty, and Buyer has agreed to amend the Original Guaranty as more specifically set forth herein (the Original Guaranty, as amended pursuant to this Amendment and as the same may be further amended, restated, supplemented or otherwise modified from time to time, the "Guaranty").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Amendments to Original Guaranty. The Original Guaranty is hereby amended by deleting Section 9(a)(ii) and Section 9(a)(iii) entirely and replacing them with the following:

"(ii) Guarantor (and its consolidated Subsidiaries) shall have a ratio of Indebtedness to Tangible Net Worth not more than 4.50 to 1.00;

(iii) [RESERVED];"

2. Representations and Warranties. Seller hereby represents and warrants to Buyer as follows:

(a) No Margin Deficit, Event of Default, Default or, to Seller or Guarantor's knowledge, Material Adverse Effect has occurred and is continuing as of the date hereof, and no Default, Event of Default or Margin Deficit will occur as a result of the execution, delivery and performance by Seller or Guarantor of this Amendment.

(b) All representations and warranties contained in the Original Guaranty are true, correct, complete and accurate in all respects as of the date hereof (except (i) such representations which by their terms speak as of a specified date and subject to any exceptions disclosed to Buyer in an Exception Report prior to such date and approved by Buyer, and (ii) the representations and warranties regarding Seller or Guarantor's financial statements shall be deemed to refer to the most recent financial statements furnished to Administrative Agent).

(c) No amendments have been made to the organizational documents of Seller or Guarantor since January 16, 2020.

(d) Seller and Guarantor have the authority to execute and deliver this Amendment and the other Transaction Documents to be executed and delivered in connection with this Amendment.

3. Effectiveness. The effectiveness of this Amendment is subject to receipt by Buyer, of the following:

   (a) Amendment. This Amendment, duly executed and delivered by Seller, Guarantor and Buyer.

   (b) Fees. Payment by Seller of the actual costs and expenses, including, without limitation, the reasonable fees and expenses of counsel to Buyer, incurred by Buyer in connection with this Amendment and the transactions contemplated hereby.

   (c) Responsible Officer Certificate. A signed Officer's Certificate of Seller certifying: (i) that no amendments have been made to the organizational documents of Seller and Guarantor since January 16, 2020, unless otherwise stated therein; and (ii) the authority of Seller and Guarantor to execute and deliver this Amendment and the other Transaction Documents to be executed and delivered in connection with this Amendment.

   (d) Good Standing. Certificates of existence and good standing for the Seller and Guarantor.

   (e) Legal Opinions. Opinions of outside counsel to Seller reasonably acceptable to Buyer as to such matters as Buyer may reasonably request.

4. Continuing Effect. As amended by this Amendment, all terms, covenants and provisions of the Guaranty and the other Transaction Documents are ratified and confirmed and shall remain in full force and effect. As amended by this Amendment, all terms, covenants and provisions of the Guaranty are ratified and confirmed and shall remain in full force and effect. This Amendment shall be deemed a "Transaction Document" for all purposes under the Repurchase Agreement.

5. Binding Effect; No Partnership; Counterparts. The provisions of the Guaranty, as amended hereby, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein contained shall be deemed or construed to create a partnership or joint venture between any of the parties hereto. For the purpose of facilitating the execution of this Amendment as herein provided, this Amendment may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and such counterparts when taken together shall constitute but one and the same instrument. This Amendment and any other Transaction Document may be delivered by facsimile transmission, by electronic mail, or by other electronic transmission, in portable document format (.pdf) or otherwise, and each such executed facsimile, .pdf, or other electronic record shall be considered an original executed counterpart for purposes of this Amendment. Each party to this Amendment (a) agrees that it will be bound by its own Electronic Signature, (b) accepts the Electronic Signature of each other party to this Amendment, and (c) agrees that such Electronic Signatures shall be the legal equivalent of manual signatures.

6. Further Agreements. Seller agrees to execute and deliver such additional documents, instruments or agreements as may be reasonably requested by Buyer, and as may be necessary or appropriate from time to time to effectuate the purposes of this Amendment.

7. Governing Law. **THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.**

8. Defined Terms. Capitalized terms used but not defined herein shall have the meanings set forth in the Guaranty.

9. Headings. The headings of the sections and subsections of this Amendment are for convenience of reference only and shall not be considered a part hereof nor shall they be deemed to limit or otherwise affect any of the terms or provisions hereof.

10. References to Transaction Documents. All references to the Guaranty in any Transaction Document, or in any other document executed or delivered in connection therewith shall, from and after the execution and delivery of this Amendment, be deemed a reference to the Guaranty, as amended hereby, unless the context expressly requires otherwise.

11. No Waiver. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Buyer, under the Guaranty or any other Transaction Document, nor constitute a waiver of any provision of the Guaranty or any other Transaction Document by any of the parties hereto.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

ACRC Lender MS LLC, a Delaware limited liability company, as Seller

By: /s/ Elaine McKay
Name: Elaine McKay
Title: Vice President

[SIGNATURE PAGE TO AMENDMENT]

ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation, as Guarantor

By:	/s/ Elaine McKay
Name:	Elaine McKay
Title:	Vice President

[SIGNATURE PAGE TO AMENDMENT]

MORGAN STANLEY BANK, N.A., a national banking association, as Buyer

By: /s/ Anthony Preisano
Name: Anthony Preisano
Title: Executive Director

[SIGNATURE PAGE TO AMENDMENT]

Exhibit 10.62

SECOND AMENDMENT TO GUARANTY

THIS SECOND AMENDMENT TO GUARANTY (this "Amendment") is entered into as of February 10, 2022 by ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation ("Guarantor"), and METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation ("Buyer").

RECITALS

WHEREAS, Guarantor entered into that certain Guaranty in favor of Buyer, dated as of August 13, 2014 (the "Original Guaranty") relating to that certain Master Repurchase Agreement, dated as of August 13, 2014, between ACRC Lender ML LLC, a Delaware limited liability company ("Seller"), and Buyer (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Repurchase Agreement");

WHEREAS, Guarantor and Buyer amended the Original Guaranty by entering into that certain Amendment to Guaranty, dated as of September 22, 2016 (the Original Guaranty, as so amended, the "Existing Guaranty"); and

WHEREAS, on the date hereof, Seller and Guarantor have requested certain amendments and modifications be made to the Existing Guaranty, and Buyer has agreed to amend the Existing Guaranty as more specifically set forth herein (the Existing Guaranty, as amended pursuant to this Amendment and as the same may be further amended, restated, supplemented or otherwise modified from time to time, the "Guaranty").

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor and Buyer hereby agree to amend the Existing Guaranty as follows:

Section 1. Definitions. Unless otherwise indicated, capitalized terms that are used but not defined herein shall have the meanings ascribed to them in the Existing Guaranty, and if not defined in the Existing Guaranty, the meanings ascribed to them in the Repurchase Agreement.

Section 2. Amendment. The Existing Guaranty is hereby amended as follows:

2.1 Amendment to Section 1 of the Existing Guaranty. The defined term "Recourse Debt" set forth in Section 1 of the Existing Guaranty is hereby deleted in its entirety.

2.2 Amendment to Section 9(a) of the Existing Guaranty. Section 9(a) of the Existing Guaranty is hereby amended and restated in its entirety as follows:

"(a) Maximum Indebtedness to Tangible Net Worth Ratio. At the end of each Test Period, Guarantor (on a consolidated basis) shall maintain its ratio of Indebtedness to Tangible Net Worth to be not more than 4.50 to 1.00."

2.3 Amendment to Section 9(b) of the Existing Guaranty. Section 9(b) of the Existing Guaranty is hereby amended and restated in its entirety as follows:

"[RESERVED]"

Section 3. Reaffirmation; Acknowledgement. Guarantor hereby absolutely and unconditionally reaffirms its obligations under the Original Guaranty, as amended by this Amendment.

Section 4. Representations and Warranties.

4.1 Representations and Warranties of Guarantor. As of the date of this Amendment (except to the extent specifically related to a different date), all representations and warranties of Guarantor contained in the Existing Guaranty are true and correct in all material respects and Guarantor hereby confirms each such representation and warranty made by it with the same effect as if set forth in full herein. Guarantor is in full compliance with all of the terms and provisions set forth in the Transaction Documents to which it is a party on its part to be observed and performed.

4.2 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer that, as of the date of this Amendment, no Default or Event of Default has occurred and is continuing.

Section 5. Limited Effect. Except as expressly set forth herein, the Existing Guaranty remains unmodified and in full force and effect. After the date hereof, all references in the Guaranty to "this Agreement", "this Guaranty", "hereof", "herein" or words of similar effect in referring to the Existing Guaranty shall be deemed to be references to the Existing Guaranty as amended by this Amendment. All references to the Guaranty contained in any of the other Transaction Documents shall be deemed to be references to the Existing Guaranty as amended by this Amendment.

Section 6. Conditions to Effectiveness. This Amendment shall be effective as of the first date Buyer shall have received a counterpart of this Amendment duly executed by the parties hereto.

Section 7. Counterparts. This Amendment may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be deemed to be an original.

Section 8. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 9. Expenses. Guarantor agrees to pay and reimburse Buyer for all out-of- pocket costs and expenses incurred by Buyer in connection with the preparation, execution and

delivery of this Amendment, including, without limitation, the fees and disbursements of outside counsel to Buyer.

Section 10. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment or are given any substantive effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be duly executed by its officers thereunto duly authorized as of the date first above written.

ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation, as Guarantor

By: /s/ Elaine McKay
Name: Elaine McKay
Title: Vice President

METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation

By: /s/ Jiawei Ding
Name: Jiawei Ding
Title: Authorized Signatory and Director

Acknowledged and Agreed as of the date hereof solely for purposes of Section 4.2 hereof:
ACRC LENDER ML LLC, a Delaware limited liability company, as Seller

By: /s/ Elaine McKay
Name: Elaine McKay
Title: Vice President

SECOND AMENDED AND RESTATED GUARANTEE AGREEMENT

SECOND AMENDED AND RESTATED GUARANTEE AGREEMENT, dated as of February 10, 2022 (as the same has been and may be further amended, restated, supplemented, or otherwise modified from time to time, this "Guarantee"), made by ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation ("Guarantor") having its principal place of business c/o Ares Management LLC, One North Wacker Drive, 48th Floor, Chicago, IL 60606, in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Buyer") and any of its parent, subsidiary or affiliated companies (collectively, "Beneficiary").

RECITALS

Pursuant to that certain Master Repurchase and Securities Contract, dated as of December 14, 2011 (as amended and/or amended and restated from time to time and as most recently amended and restated by that certain Third Amended and Restated Master Repurchase and Securities Contract among Buyer, ACRC Lender W LLC and ACRC Lender W TRS LLC (individually, each a "Seller", and collectively, "Sellers") dated as of February 10, 2022, and as further amended, restated, supplemented or otherwise modified from time to time, the "Repurchase Agreement"), Sellers agreed to sell, from time to time, to Buyer certain Whole Loans, Senior Interests and Mezzanine Loans, each as defined in the Repurchase Agreement (collectively, the "Purchased Assets"), upon the terms and subject to the conditions as set forth therein. The Repurchase Agreement, this Guarantee and any other agreements executed in connection with the Repurchase Agreement shall be referred to herein as the "Repurchase Documents".

In connection with the execution and delivery by the parties thereto of the Repurchase Documents, Guarantor executed and delivered to Buyer a Guarantee Agreement dated as of May 12, 2012 (the "Original Guarantee"), which was amended and restated by that certain Amended and Restated Guarantee Agreement delivered by Guarantor dated as of December 20, 2013 (as amended, supplemented or otherwise modified from time to time prior to the date hereof, the "Existing Guarantee").

It is a condition to Buyer entering into an amendment of the Repurchase Agreement and other Repurchase Documents and purchasing the Purchased Assets that Guarantor amend and restate the Existing Guarantee in its entirety by executing and delivering this Guarantee in favor of Beneficiary with respect to the due and punctual payment and performance when due, whether at stated maturity, by acceleration or otherwise, of all of the following: (a) all payment obligations owing by any Seller to Buyer under or in connection with the Repurchase Agreement and any other Repurchase Documents; (b) any and all extensions, renewals, modifications, amendments or substitutions of the foregoing; (c) all expenses, including, without limitation, reasonable attorneys' fees and disbursements, that are incurred by Buyer in the enforcement of any of the foregoing or any obligation of Guarantor hereunder; (d) any other obligations of any Seller with respect to Buyer under each of the Repurchase Documents; and (e) if Interim Servicer is an Affiliate of either Seller or Guarantor, the timely delivery by Interim Servicer of Income into the Waterfall Account in accordance with the applicable provisions of the Repurchase Agreement including, without limitation, Section 5.01 thereof (collectively, the "Obligations").

NOW, THEREFORE, in consideration of the foregoing premises, to induce Buyer to enter into the Repurchase Documents and to enter into the transactions contemplated thereunder, Guarantor hereby agrees with Buyer as follows:

1. Defined Terms. Unless otherwise defined herein, terms which are defined in the Repurchase Agreement and used herein are so used as so defined.

"Aggregate Recourse Amount": The total sum, for all Purchased Assets, of the applicable Recourse Percentage for each such Purchased Asset, multiplied by the then-currently unpaid aggregate outstanding Repurchase Price of each such Purchased Asset.

"Available Borrowing Capacity" means, with respect to any Person, on any date of determination, the total unrestricted borrowing capacity which may be drawn (taking into account required reserves and discounts) upon by such Person or its Subsidiaries, at such Person's or its Subsidiaries' request based upon approved but undrawn amounts, under committed credit facilities or repurchase agreements which provide financing to such Person or its Subsidiaries.

"Cash Liquidity" means, at any date of determination, the amount of Guarantor's Cash or Cash Equivalents.

"Cash or Cash Equivalents": All unencumbered cash, together with any and all of the following, in each case to the extent owned by Guarantor or any of its Subsidiaries free and clear of all Liens and having a maturity of not greater than ninety (90) days from the date of issuance thereof: (a) readily marketable direct obligations of the government of the United States or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the government of the United States, (b) certificates of deposit of or time deposits with Buyer or a member of the Federal Reserve System that issues (or the parent of which issues) commercial paper rated as described in clause (c) below, is organized under the laws of the United states or any State thereof and has combined capital and surplus of at least $500,000,000, (c) commercial paper in an aggregate amount of not more than $50,000,000 per issuer outstanding at any time, issued by any corporation organized under the laws of any State of the United States and rated at least "Prime-1" (or the then equivalent grade) by Moody's or "A-1" (or the then equivalent grade) by S&P, (d) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than seven days with respect to securities issued or fully guaranteed or insured by the United States Government, (e) securities with maturities of ninety (90) days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A2 by Moody's, (f) securities with maturities of ninety (90) days or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition or (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

"Debt": With respect to any Person: (i) all indebtedness, whether or not represented by bonds, debentures, notes, securities, or other evidences of indebtedness, for the repayment of money borrowed, (ii) all indebtedness representing deferred payment of the purchase price of property or assets (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business and payable within 60 days), (iii) all indebtedness under any lease which, in conformity with GAAP, is required to be capitalized for balance sheet purposes, (iv) all indebtedness under guaranties, endorsements, assumptions, or other contingent obligations, other than contingent obligations with respect to future funding obligations of the Subsidiaries of Guarantor, and (v) all indebtedness secured by a lien existing on property owned, subject to such lien, whether or not the indebtedness secured thereby shall have been assumed by the owner thereof; provided, that "Debt" shall be determined without regard to the effects of consolidation of any issuer of a Specified Third Party Securitization on the financial statements

of the Guarantor under Accounting Standards Codification Section 810, as amended, modified or supplemented from time to time, or otherwise under GAAP.

"Debt Service": For any Test Period, the sum of (a) Interest Expense for Guarantor determined on a consolidated basis for such period, and (b) all regularly scheduled principal payments made with respect to Indebtedness of Guarantor and its Subsidiaries during such period, other than (i) any voluntary or involuntary prepayment or (ii) prepayment occasioned by the repayment of an underlying asset, or any balloon, bullet, margin or similar principal payment which repays such Indebtedness in part or in full.

"Fixed Charge Coverage Ratio": With respect to Guarantor at any time, the EBITDA (as determined in accordance with GAAP) for the immediately preceding twelve (12) month period ending on the last date of the applicable Test Period, divided by the Fixed Charges for the immediately preceding twelve (12) month period ending on the last date of the applicable Test Period; provided, that the "Fixed Charge Coverage Ratio" and associated components thereof shall be determined without regard to the effects of consolidation of any issuer of a Specified Third Party Securitization on the financial statements of the Guarantor under Accounting Standards Codification Section 810, as amended, modified or supplemented from time to time, or otherwise under GAAP.

"Fixed Charges": With respect to Guarantor at any time, the sum of (a) Debt Service, (b) all preferred dividends that Guarantor is required, pursuant to the terms of the certificate of designation or other similar document governing the rights of preferred shareholders, to pay and is not permitted to defer, (c) Capital Lease Obligations paid or accrued during such period, and (d) any amounts payable under any Ground Lease.

"Investment Securities": Any of the following, but only to the extent approved by Buyer in its sole discretion:

(a) negotiable debt obligations issued by the U.S. Treasury Department having a remaining maturity of less than one year;

(b) negotiable debt obligations issued by the U.S. Treasury Department having a remaining maturity of one to ten years; and

(c) negotiable debt obligations issued by the U.S. Treasury Department having a remaining maturity of more than ten years.

"Recourse Debt": Without duplication, (a) Debt of a consolidated Subsidiary of Guarantor for which Guarantor has provided a payment guarantee and/or (b) any Debt of Guarantor other than Debt in respect of which recourse for payment (except for customary exceptions for fraud, misrepresentation, misapplication of cash, waste, environmental claims and liabilities, prohibited transfers, violations of single purpose entity covenants customarily excluded by institutional lenders from exculpation provisions and/or included in separate guaranty or indemnification agreements in non-recourse financings of real estate) is contractually limited to specific assets of Guarantor (and not a majority of Guarantor's assets) encumbered by a Lien securing such Debt; provided, that "Recourse Debt" shall be determined without regard to the effects of consolidation of any issuer of a Specified Third Party Securitization on the financial statements of the Guarantor under Accounting Standards Codification Section 810, as amended, modified or supplemented from time to time, or otherwise under GAAP.

"Specified Third Party Securitization": Any securitization transaction that was not established or sponsored by Guarantor, Manager or any of their respective Affiliates.

“Tangible Net Worth”: With respect to Guarantor at any time, determined on a consolidated basis, all amounts that would be included under capital or shareholder’s equity (or any like caption) on the balance sheet of Guarantor, minus (a) amounts owing to Guarantor from any Affiliate thereof, or from officers, employees, partners, members, directors, shareholders or other Persons similarly affiliated with such Person or any Affiliate thereof, (b) intangible assets, and (c) prepaid taxes and/or expenses, plus deferred origination fees, net of deferred origination costs, all on or as of such date; provided, that “Tangible Net Worth” shall be determined without regard to the effects of consolidation of any issuer of a Specified Third Party Securitization on the financial statements of the Guarantor under Accounting Standards Codification Section 810, as amended, modified or supplemented from time to time, or otherwise under GAAP. For the sake of clarity, mortgage servicing rights shall not be deemed to be intangible assets.

“Test Period”: The time period from the first day of each calendar quarter, through and including the last day of such calendar quarter.

“Total Liquidity” means, at any date of determination, the sum of (i) Cash Liquidity plus (ii) unencumbered Investment Securities; provided, that “Total Liquidity” and associated components thereof shall be determined without regard to the effects of consolidation of any issuer of a Specified Third Party Securitization on the financial statements of Guarantor under Accounting Standards Codification Section 810, as amended, modified or supplemented from time to time, or otherwise under GAAP.

2. Guarantee. (a) Guarantor hereby unconditionally and irrevocably guarantees to Beneficiary the prompt and complete payment and performance by each Seller when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations.

(b) Notwithstanding anything herein to the contrary, but subject to clause (c) below, the maximum liability of Guarantor hereunder and under the Repurchase Documents shall in no event exceed the sum of (x) the Aggregate Recourse Amount, and (y) one hundred percent (100%) of all of the Obligations described in clause (e) of the definition thereof.

(c) Notwithstanding the foregoing, the limitation on recourse liability as set forth in both of clauses (x) and (y) of subsection (b) above SHALL BECOME NULL AND VOID and shall be of no further force and effect and the Obligations shall be fully recourse to each Seller and Guarantor, jointly and severally, upon the occurrence of any of the following:

(i) a voluntary bankruptcy or insolvency proceeding is commenced by either Seller under the U.S. Bankruptcy Code or any similar federal or state law;

(ii) an involuntary bankruptcy or insolvency proceeding is commenced against Guarantor or either Seller in connection with which Seller, Guarantor or any Affiliate of any of the foregoing has or have colluded in any way with the creditors commencing or filing such proceeding; or

(iii) fraud or intentional misrepresentation by Guarantor, either Seller or any other Affiliate of Seller or Guarantor in connection with the execution and the delivery of this Guarantee, the Repurchase Agreement, or any of the other Repurchase Documents, or any certificate, report, financial statement or other instrument or document furnished to Buyer at the time of the closing of the Repurchase Agreement or during the term of the Repurchase Agreement.

(d) In addition to the foregoing and notwithstanding the limitation on recourse liability set forth in both of clauses (x) and (y) of subsection (b) above, Guarantor shall be liable

for any losses, costs, claims, expenses or other liabilities incurred by Buyer arising out of or attributable to the following items:

(i) any material breach of the separateness covenants set forth in Article 9 of the Repurchase Agreement; and

(ii) any material breach of any representations and warranties by Guarantor contained in any Repurchase Document and any material breach by Guarantor, either Seller or any of their respective Affiliates, of any representations and warranties relating to Environmental Laws, or any indemnity for costs incurred in connection with the violation of any Environmental Law, the correction of any environmental condition, or the removal of any Materials of Environmental Concern, in each case in any way affecting any Seller's or Guarantor's properties or any of the Purchased Assets.

(e) Nothing herein shall be deemed to be a waiver of any right which Buyer may have under Section 506(a), 506(b), 1111(b) or any other provision of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness secured by the Repurchase Agreement or to require that all collateral shall continue to secure all of the indebtedness owing to the Buyer in accordance with the Repurchase Agreement or any other Repurchase Documents.

(f) Guarantor further agrees to pay any and all reasonable expenses (including, without limitation, all reasonable fees and disbursements of counsel) which may be paid or incurred by Beneficiary in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, Guarantor under this Guarantee. This Guarantee shall remain in full force and effect until the Obligations are satisfied or paid in full, notwithstanding that from time to time prior thereto Sellers may be free from any Obligations.

(g) No payment or payments made by any Seller or any other Person or received or collected by Beneficiary from any Seller or any other Person by virtue of any action or proceeding or any set-off or appropriation or application, at any time or from time to time, in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the amount of the Obligations until the Obligations are paid in full.

(h) Guarantor agrees that whenever, at any time, or from time to time, Guarantor shall make any payment to Beneficiary on account of Guarantor's liability hereunder, Guarantor will notify Buyer in writing that such payment is made under this Guarantee for such purpose.

3. Subrogation. Upon making any payment hereunder, Guarantor shall be subrogated to the rights of Buyer against Sellers and any collateral for any Obligations with respect to such payment; provided that Guarantor shall not seek to enforce any right or receive any payment by way of subrogation until all amounts due and payable by Sellers to Buyer under the Repurchase Documents or any related documents have been paid in full; and further provided that such subrogation rights shall be subordinate in all respects to all amounts owing to the Buyer under the Repurchase Documents.

4. Amendments, etc. with respect to the Obligations. Until the Obligations shall have been paid or performed in full, and subject to the provisions of Section 11 of this Guarantee, Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against Guarantor, and without notice to or further assent by Guarantor, any demand for payment of any of the Obligations made by Buyer may be rescinded by Buyer and

any of the Obligations continued, and the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by Buyer, and any Repurchase Document and any other document in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as Buyer may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by Buyer for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Buyer shall have no obligation to protect, secure, perfect or insure any lien at any time held by it as security for the Obligations or for this Guarantee or any property subject thereto. When making any demand hereunder against Guarantor, Buyer may, but shall be under no obligation to, make a similar demand on any Seller or any other guarantor, and any failure by Buyer to make any such demand or to collect any payments from any such Seller or any such other guarantor or any release of any such Seller or such other guarantor shall not relieve Guarantor of its Obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of Buyer against Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

5. Guarantee Absolute and Unconditional. (a) Guarantor hereby agrees that its obligations under this Guarantee constitute a guarantee of payment when due and not of collection. Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by Beneficiary upon this Guarantee or acceptance of this Guarantee; the Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred in reliance upon this Guarantee; and all dealings between any Seller or Guarantor, on the one hand, and Beneficiary, on the other hand, shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guarantee. Guarantor waives promptness, diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon Sellers or Guarantor with respect to the Obligations. This Guarantee shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (i) the validity, regularity or enforceability of any Repurchase Document, any of the Obligations or any collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by Beneficiary, (ii) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by a Seller against Beneficiary, (iii) any requirement that Beneficiary exhaust any right to take any action against a Seller or any other Person prior to or contemporaneously with proceeding to exercise any right against Guarantor under this Guarantee or (iv) any other circumstance whatsoever (with or without notice to or knowledge of any Seller or Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of a Seller for the Obligations or of Guarantor under this Guarantee, in bankruptcy or in any other instance. When pursuing its rights and remedies hereunder against Guarantor, Beneficiary may, but shall be under no obligation, to pursue such rights and remedies that Beneficiary may have against a Seller or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by Beneficiary to pursue such other rights or remedies or to collect any payments from a Seller or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of any such Seller or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of Beneficiary against Guarantor. This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon Guarantor and its successors and assigns thereof, and shall inure to the benefit of Beneficiary, and its successors, endorsees, transferees and assigns, until all of the Obligations shall have been satisfied in full, notwithstanding any sale by Buyer of any Purchased Asset as set forth in Article

10 of the Repurchase Agreement or the exercise by Buyer of any of the other rights and remedies set forth in any of the Repurchase Documents.

(b) Without limiting the generality of the foregoing, Guarantor hereby agrees, acknowledges, and represents and warrants to Beneficiary as follows:

(i) Guarantor hereby waives any defense arising by reason of, and any and all right to assert against Buyer any claim or defense based upon, an election of remedies by Beneficiary which in any manner impairs, affects, reduces, releases, destroys and/or extinguishes Guarantor's subrogation rights, rights to proceed against any Seller, or any other guarantor for reimbursement or contribution, and/or any other rights of Guarantor to proceed against any Seller against any other guarantor, or against any other person or security.

(ii) Guarantor is presently informed of the financial condition of Sellers and of all other circumstances which diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Guarantor hereby covenants that it will make its own investigation and will continue to keep itself informed about each of Sellers' financial condition, the status of other guarantors, if any, of circumstances which bear upon the risk of nonpayment and that it will continue to rely upon sources other than Buyer for such information and will not rely upon Beneficiary or any Beneficiary for any such information. Absent a written request for such information by Guarantor to Beneficiary, Guarantor hereby waives the right, if any, to require Beneficiary to disclose to Guarantor any information which Beneficiary may now or hereafter acquire concerning such condition or circumstances including, but not limited to, the release of or revocation by any other guarantor.

(iii) Guarantor has independently reviewed the Repurchase Documents and related agreements and has made an independent determination as to the validity and enforceability thereof, and in executing and delivering this Guarantee to Beneficiary, Guarantor is not in any manner relying upon the validity, and/or enforceability, and/or attachment, and/or perfection of any liens or security interests of any kind or nature granted by any Seller or any other guarantor to Buyer or any Buyer, now or at any time and from time to time in the future.

6. Reinstatement. This Guarantee shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by Buyer upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Seller or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any of any Seller or any substantial part of such Seller's property, or otherwise, all as though such payments had not been made.

7. Payments. Guarantor hereby agrees that the Obligations will be paid to Buyer without set-off or counterclaim in U.S. Dollars at the address specified in writing by Buyer.

8. Representations and Warranties. Guarantor represents and warrants that:

(a) Guarantor has the legal capacity and the legal right to execute and deliver this Guarantee and to perform Guarantor's obligations hereunder;

(b) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority and no consent of any other Person (including, without

limitation, any creditor of Guarantor) is required in connection with the execution, delivery, performance, validity or enforceability of this Guarantee;

(c) this Guarantee has been duly executed and delivered by Guarantor and constitutes a legal, valid and binding obligation of Guarantor enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought in proceedings in equity or at law);

(d) the execution, delivery and performance of this Guarantee will not violate any law, treaty, rule or regulation or determination of an arbitrator, a court or other governmental authority, applicable to or binding upon Guarantor or any of its property or to which Guarantor or any of its property is subject ("Requirement of Law"), or any provision of any security issued by Guarantor or of any agreement, instrument or other undertaking to which Guarantor is a party or by which it or any of its property is bound ("Contractual Obligation"), and will not result in or require the creation or imposition of any lien on any of the properties or revenues of Guarantor pursuant to any Requirement of Law or Contractual Obligation of Guarantor;

(e) no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the Knowledge of Guarantor, threatened by or against Guarantor or against any of Guarantor's properties or revenues with respect to this Guarantee or any of the transactions contemplated hereby; and

(f) except as disclosed in writing to Buyer prior to the date hereof, Guarantor has filed or caused to be filed all tax returns which, to the Knowledge of Guarantor, are required to be filed and has paid all taxes shown to be due and payable on said returns or on any assessments made against him or any of Guarantor's property and all other taxes, fees or other charges imposed on him or any of Guarantor's property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings); no tax lien has been filed, and, to the Knowledge of Guarantor, no claim is being asserted, with respect to any such tax, fee or other charge.

Guarantor agrees that the foregoing representations and warranties shall be deemed to have been made by Guarantor on the date of each Transaction under the Repurchase Agreement, on and as of such date of the Transaction, as though made hereunder on and as of such date.

9. Covenants.

(a) Ratio of Debt to Tangible Net Worth. At the end of each Test Period, Guarantor (on a consolidated basis) shall maintain its ratio of Debt to Tangible Net Worth to not more than 4.50 to 1.00.

(b) Fixed Charge Coverage Ratio. Guarantor shall not permit its Fixed Charge Coverage Ratio for the immediately preceding twelve (12) month period ending on the last date of the applicable Test Period to be less than 1.25 to 1.00, with compliance to be tested as of the end of each Test Period.

(c) Tangible Net Worth. Guarantor shall not permit its Tangible Net Worth to be less than the sum of (i) $135,520,000, plus (ii) eighty percent (80%) of the net proceeds (after the deduction of all related transaction costs) of all issuances of equity by Guarantor occurring after the date of the Original Guarantee, with compliance to be tested as of the end of each Test Period. Sellers shall confirm the amount of Guarantor's Tangible Net Worth as of the date of this Guarantee, in writing in a Compliance Certificate executed and delivered to Buyer on February

10, 2022. As of the date of such Compliance Certificate, the minimum Tangible Net Worth required to be maintained pursuant to this Section 9(c) is $716,032,081.

(d) Minimum Total Liquidity. Guarantor's Total Liquidity to be less than the greater of (x) $5,000,000 and (y) 5% of Guarantor's Recourse Debt, not to exceed $10,000,000; provided, that notwithstanding the foregoing or anything herein to the contrary, in the event Guarantor's Total Liquidity shall equal or exceed $5,000,000 (such amount, the "Guarantor's Actual Total Liquidity Amount"), then Guarantor may satisfy the difference between the minimum Total Liquidity requirement and the Guarantor's Actual Total Liquidity Amount with Available Borrowing Capacity.

(e) Guarantor shall deliver to Buyer those documents required to be delivered by or on behalf of Guarantor pursuant to Sections 8.07(a), (b), (d) and (e) of the Repurchase Agreement as soon as such documents are available but, in any event, no later than as and when required under the Repurchase Agreement.

10. Severability. Any provision of this Guarantee which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

11. Paragraph Headings. The paragraph headings used in this Guarantee are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

12. No Waiver; Cumulative Remedies. Buyer shall not by any act (except by a written instrument pursuant to Section 13 hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any default or event of default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of Buyer, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by Buyer of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Buyer would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any rights or remedies provided by law.

13. Waivers and Amendments; Successors and Assigns; Governing Law. None of the terms or provisions of this Guarantee may be waived, amended, supplemented or otherwise modified except by a written instrument executed by Guarantor and Buyer, provided that, subject to any limitations set forth in the Repurchase Agreement, any provision of this Guarantee may be waived by Buyer in a letter or agreement executed by Buyer or by telex or facsimile transmission from Buyer. This Guarantee shall be binding upon the heirs, personal representatives, successors and assigns of Guarantor and shall inure to the benefit of Buyer, and their respective successors and assigns. **THIS GUARANTEE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO OR IN CONNECTION WITH THIS GUARANTEE, THE RELATIONSHIP OF THE PARTIES, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES WILL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY CONFLICTS OF LAW PRINCIPLES OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.**

14. Notices. Notices by Buyer to Guarantor may be given by mail, or by telecopy transmission, addressed to Guarantor at the address or transmission number set forth under its signature below and shall be effective (a) in the case of mail, five days after deposit in the postal system, first class certified mail and postage pre-paid, (b) one Business Day following timely delivery to a nationally recognized overnight courier service for next Business Day delivery and (c) in the case of telecopy transmissions, when sent, transmission electronically confirmed if prior to 5:00 p.m. local recipient time on a Business Day, and otherwise on the next succeeding Business Day. Notices to Buyer by Guarantor may be given in the manner set forth in the Repurchase Agreement.

15. SUBMISSION TO JURISDICTION; WAIVERS. EACH OF GUARANTOR AND BENEFICIARY HEREBY IRREVOCABLY AND UNCONDITIONALLY:

(a) SUBMITS FOR GUARANTOR AND GUARANTOR'S PROPERTY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE AND THE OTHER REPURCHASE DOCUMENTS TO WHICH GUARANTOR IS A PARTY, OR FOR RECOGNITION AND ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, TO THE NON-EXCLUSIVE GENERAL JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK, THE COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, AND APPELLATE COURTS FROM ANY THEREOF;

(b) CONSENTS THAT ANY SUCH ACTION OR PROCEEDING MAY BE BROUGHT IN SUCH COURTS AND WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT SUCH ACTION OR PROCEEDING WAS BROUGHT IN AN INCONVENIENT COURT AND AGREES NOT TO PLEAD OR CLAIM THE SAME;

(c) AGREES THAT SERVICE OF PROCESS IN ANY ACTION OR PROCEEDING UNDER THIS GUARANTEE MAY BE EFFECTED BY MAILING A COPY THEREOF BY REGISTERED OR CERTIFIED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL), POSTAGE PREPAID, TO SUCH PARTY AT SUCH PARTY'S ADDRESS, AS SET FORTH UNDER GUARANTOR'S SIGNATURE BELOW, WITH RESPECT TO DELIVERIES SENT TO GUARANTOR, OR, WITH RESPECT TO DELIVERIES SENT TO BUYER, AT THE ADDRESS SET FORTH IN THE REPURCHASE AGREEMENT, OR, IN EITHER CASE, AT SUCH OTHER ADDRESS OF WHICH THE OTHER PARTY SHALL HAVE BEEN NOTIFIED; AND

(d) AGREES THAT NOTHING HEREIN SHALL AFFECT THE RIGHT TO EFFECT SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

16. Integration. This Guarantee represents the agreement of Guarantor with respect to the subject matter hereof and there are no promises or representations by Buyer or any Buyer relative to the subject matter hereof not reflected herein.

17. Acknowledgments. Guarantor hereby acknowledges that:

(a) Guarantor has been advised by counsel in the negotiation, execution and delivery of this Guarantee and the related documents;

(b) neither Buyer nor any Beneficiary has any fiduciary relationship to Guarantor, and the relationship between Beneficiary and Guarantor is solely that of surety and creditor; and

(c) no joint venture exists between or among any of Buyer, the Beneficiary, Guarantor and Sellers.

18. **WAIVERS OF JURY TRIAL. EACH OF GUARANTOR AND BENEFICIARY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE OR ANY RELATED DOCUMENT AND FOR ANY COUNTERCLAIM HEREIN OR THEREIN.**

19. Effect of Amendment and Restatement. From and after the date hereof, the Existing Guarantee from Guarantor in favor of Buyer, shall be amended, restated and superseded in its entirety by this Guarantee.

[SIGNATURES COMMENCE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has caused this Second Amended and Restated Guarantee Agreement to be duly executed and delivered as of the date first above written.

ARES COMMERCIAL REAL ESTATE CORPORATION, a Maryland corporation, as Guarantor

By: /s/ Elaine McKay
Name: Elaine McKay
Title: Vice President

Exhibit 10.64

THIRD AMENDED AND RESTATED
MASTER REPURCHASE AND SECURITIES CONTRACT
ACRC LENDER W LLC

and

ACRC LENDER W TRS LLC
as Sellers

WELLS FARGO BANK, NATIONAL ASSOCIATION

as Buyer

Dated as of February 10, 2022

TABLE OF CONTENTS

ARTICLE 1	APPLICABILITY
Section 1.01	Applicability
ARTICLE 2	DEFINITIONS AND INTERPRETATION
Section 2.01	Rules of Interpretation
Section 2.02	Rates
ARTICLE 3	THE TRANSACTIONS
Section 3.01	Procedures
Section 3.02	Transfer of Purchased Assets; Servicing Rights
Section 3.03	Maximum Amount
Section 3.04	Early Repurchase Date; Mandatory Repurchases
Section 3.05	Repurchase
Section 3.06	Extension of the Facility Termination Date and Funding Period
Section 3.07	Partial Prepayment
Section 3.08	Payment of Price Differential and Fees
Section 3.09	Payment, Transfer and Custody
Section 3.10	Repurchase Obligations Absolute
Section 3.11	Future Funding Transactions
ARTICLE 4	MARGIN MAINTENANCE
Section 4.01	Margin Deficit
ARTICLE 5	APPLICATION OF INCOME
Section 5.01	Waterfall Account; Collection Accounts
Section 5.02	Before an Event of Default
Section 5.03	After an Event of Default
Section 5.04	Sellers to Remain Liable
ARTICLE 6	CONDITIONS PRECEDENT
Section 6.01	Conditions Precedent to Closing
Section 6.02	Conditions Precedent to All Transactions
ARTICLE 7	REPRESENTATIONS AND WARRANTIES OF SELLERS
Section 7.01	Sellers
Section 7.02	Repurchase Documents
Section 7.03	Solvency
Section 7.04	Taxes
Section 7.05	True and Complete Disclosure
Section 7.06	Compliance with Laws
Section 7.07	Compliance with ERISA
Section 7.08	No Default or Material Adverse Effect
Section 7.09	Purchased Assets
Section 7.10	Purchased Assets Acquired from Transferors
Section 7.11	Transfer and Security Interest
Section 7.12	No Broker

Section 7.13 Interest Rate Protection Agreements

TABLE OF CONTENTS
(continued)

Section 7.14 Separateness
Section 7.15 Location of Books and Records
Section 7.16 Chief Executive Office; Jurisdiction of Organization
Section 7.17 Entity Classification
Section 7.18 Anti-Money Laundering Laws and Anti-Corruption Laws
Section 7.19 Sanctions
Section 7.20 Investment Company Act
Section 7.21 Beneficial Ownership Certification
ARTICLE 8 COVENANTS OF SELLERS
Section 8.01 Existence; Governing Documents; Conduct of Business
Section 8.02 Compliance with Laws, Contractual Obligations and Repurchase Documents
Section 8.03 Protection of Buyer's Interest in Purchased Assets
Section 8.04 Distributions and Dividends
Section 8.05 Financial Covenants
Section 8.06 Delivery of Income
Section 8.07 Delivery of Financial Statements and Other Information
Section 8.08 Delivery of Notices
Section 8.09 Hedging
Section 8.10 Escrow Imbalance
Section 8.11 Pledge and Security Agreement
Section 8.12 Entity Classification
Section 8.13 Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions
Section 8.14 Compliance with Sanctions
Section 8.15 Beneficial Ownership
ARTICLE 9 SINGLE-PURPOSE ENTITY
Section 9.01 Covenants Applicable to Seller
Section 9.02 Additional Covenants Applicable to Sellers
ARTICLE 10 EVENTS OF DEFAULT AND REMEDIES
Section 10.01 Events of Default
Section 10.02 Remedies of Buyer as Owner of the Purchased Assets
ARTICLE 11 SECURITY INTEREST
Section 11.01 Grant
Section 11.02 Effect of Grant
Section 11.03 Sellers to Remain Liable
Section 11.04 Waiver of Certain Laws
ARTICLE 12 INCREASED COSTS; CAPITAL ADEQUACY
Section 12.01 Benchmark Replacement; Market Disruption
Section 12.02 Illegality
Section 12.03 Breakfunding
Section 12.04 Increased Costs

Section 12.05 Capital Adequacy

TABLE OF CONTENTS
(continued)

Section 12.06 Taxes
Section 12.07 Payment and Survival of Obligations
Section 12.08 Early Repurchase Option
ARTICLE 13 INDEMNITY AND EXPENSES
Section 13.01 Indemnity
Section 13.02 Expenses
ARTICLE 14 INTENT
Section 14.01 Safe Harbor Treatment
Section 14.02 Liquidation
Section 14.03 Qualified Financial Contract
Section 14.04 Netting Contract
Section 14.05 Master Netting Agreement
ARTICLE 15 DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS
ARTICLE 16 NO RELIANCE
ARTICLE 17 SERVICING
Section 17.01 Servicing Rights
Section 17.02 Accounts Related to Purchased Assets
Section 17.03 Servicing Reports
Section 17.04 Event of Default
ARTICLE 18 MISCELLANEOUS
Section 18.01 Governing Law
Section 18.02 Submission to Jurisdiction; Service of Process
Section 18.03 IMPORTANT WAIVERS
Section 18.04 Integration
Section 18.05 Single Agreement
Section 18.06 Use of Employee Plan Assets
Section 18.07 Survival and Benefit of Sellers' Agreements
Section 18.08 Assignments and Participations
Section 18.09 Ownership and Hypothecation of Purchased Assets
Section 18.10 Confidentiality
Section 18.11 No Implied Waivers; Amendments
Section 18.12 Notices and Other Communications
Section 18.13 Counterparts; Electronic Transmission
Section 18.14 No Personal Liability
Section 18.15 Protection of Buyer's Interests in the Purchased Assets; Further Assurances
Section 18.16 Default Rate
Section 18.17 Set-off
Section 18.18 Sellers' Waiver of Setoff
Section 18.19 Power of Attorney
Section 18.20 Periodic Due Diligence Review

Section 18.21 Time of the Essence

Section 18.22 Joint and Several Repurchase Obligations
Section 18.23 PATRIOT Act Notice
Section 18.24 Successors and Assigns
Section 18.25 Acknowledgement of Anti-Predatory Lending Policies
Section 18.26 Effect of Amendment and Restatement
Section 18.27 No Novation, Effect of Agreement
Section 18.28 Recognition of the U.S. Special Resolution Regimes

Schedule 1 Representations and Warranties
Schedule 2 General Repo Account
Schedule 3 Appraisal Procedure

THIS THIRD AMENDED AND RESTATED MASTER REPURCHASE AND SECURITIES CONTRACT, dated as of February 10, 2022 (as the same has been and may be further amended, restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by and among **ACRC LENDER W LLC**, a Delaware limited liability company ("ACRC Seller"), and **ACRC LENDER W TRS LLC**, a Delaware limited liability company ("TRS Seller", and together with the ACRC Seller, individually and collectively as the context may require, "Seller"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (as more specifically defined below, "Buyer").

WHEREAS, Sellers and Buyer entered into that certain Second Amended and Restated Master Repurchase and Securities Contract, dated as of May 1, 2017 (as amended by (i) that certain Amendment No. 1 to Second Amended and Restated Master Repurchase and Securities Contract, dated as of December 14, 2018 and (ii) that certain Amendment No. 2 to Second Amended and Restated Master Repurchase and Securities Contract, dated as of December 11, 2020 and as further amended, restated, supplemented or otherwise modified prior to the date hereof, the "Existing Repurchase Agreement").

WHEREAS, Seller and Buyer acknowledge and agree that Buyer and Seller shall not enter into any new LIBOR contracts under the Repurchase Agreement after December 31, 2021.

WHEREAS, Sellers and Buyer desire to amend and restate the Existing Repurchase Agreement in the manner set forth herein.

NOW, THEREFORE, Sellers and Buyer (each a "Party") hereby agree as follows:

ARTICLE 1

APPLICABILITY

Section 1.01 Applicability. Subject to the terms and conditions of the Repurchase Documents, from time to time during the Funding Period and at the request of a Seller, the Parties may enter into transactions in which a Seller agrees to sell, transfer and assign to Buyer certain Assets and all related rights in and interests related to such Assets on a servicing released basis, against the transfer of funds by Buyer representing the Purchase Price for such Assets, with a simultaneous agreement by Buyer to transfer to the related Seller and such Seller to repurchase such Assets in a repurchase transaction at a date not later than the Facility Termination Date, against the transfer of funds by such Seller representing the Repurchase Price for such Assets.

ARTICLE 2

DEFINITIONS AND INTERPRETATION

"Accelerated Repurchase Date": Defined in Section 10.02.

"Accepted Servicing Practices": With respect to any Purchased Asset, the commercial mortgage servicing practices of prudent financial or mortgage lending institutions that service assets of the same Class as such Purchased Asset in the jurisdiction where the related underlying Mortgaged Property is located.

"Account Control Agreement": A deposit account control agreement in favor of Buyer with respect to any bank account related to a Purchased Asset, in form and substance of the attached Exhibit G hereto.

"Actual Knowledge": With respect to any Person, the actual knowledge of such Person without further inquiry or investigation; provided, that for the avoidance of doubt, such actual knowledge shall include the knowledge of such Person and each of its employees, officers, directors and agents.

"Affiliate": With respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, such Person.

"Affiliated Hedge Counterparty": Buyer, or an Affiliate of Buyer, in its capacity as a party to any Interest Rate Protection Agreement with either Seller.

"Agreement": The meaning set forth in the initial paragraph hereof.

"Aggregate Amount Outstanding": On each date of the determination thereof, the total amount due and payable to Buyer by Sellers in connection with all Transactions under this Agreement outstanding on such date.

"Anti-Corruption Law": The U.S. Foreign Corrupt Practices Act of 1977, as amended, or any other anti-bribery or anti-corruption laws, regulations or ordinances in any jurisdiction in which any Seller, Guarantor or any of their respective Subsidiaries is located or doing business.

"Anti-Money Laundering Laws": The applicable laws or regulations in any jurisdiction in which any Seller or Guarantor is located or doing business that relate to money laundering, any predicate crime to money laundering or any financial record keeping and reporting requirements related thereto.

"Applicable Percentage": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Applicable SOFR": With respect to each SOFR Based Transaction, either the SOFR Average or Term SOFR, as applicable, as designated in the related Confirmation therefor, or if such Applicable SOFR is not specified in the related Confirmation for such SOFR Based Transaction, as specified with respect to such Transaction in the related notice of Rate Conversion delivered by Buyer in accordance with Section 12.01(d).

"Appraisal": An appraisal of the related Mortgaged Property conducted by an Independent Appraiser in accordance with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, and, in addition, certified by such Independent Appraiser as having been prepared in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, addressed to (either directly or pursuant to a reliance letter in favor of Buyer or reliance language in such Appraisal running to the benefit of Buyer as a successor and/or assign) and reasonably satisfactory to Buyer.

"Approved Representation Exception": Any Representation Exception approved in writing by Buyer in its discretion prior to the related Purchase Date.

"Asset": Any Whole Loan, Senior Interest or Mezzanine Loan, the underlying Mortgaged Property for which is included in the categories for Types of Mortgaged Property, but excluding any real property acquired by the related Seller through foreclosure or deed in lieu of

foreclosure, distressed debt or any Equity Interest issued by a special purpose entity organized to issue collateralized debt or loan obligations.

"Assignment and Acceptance": Defined in Section 18.08(b).

"Bailee": With respect to any Transaction involving a Wet Mortgage Asset, (i) a national title insurance company or nationally-recognized real estate counsel acceptable to Buyer or (ii) any other entity approved by Buyer, in its sole discretion, which may be a title company, escrow company or attorney in accordance with local law and practice in the appropriate jurisdiction of the related Wet Mortgage Asset.

"Bailee Agreement": Defined in the Custodial Agreement, which definition is incorporated herein by reference.

"Bankruptcy Code": Title 11 of the United States Code, as amended.

"Benchmark": (A) With respect to any LIBOR Based Transaction, subject to Section 12.01(a) hereof, USD LIBOR, (B) with respect to any SOFR Based Transaction for which the Applicable SOFR is initially the SOFR Average (including, without limitation, any such SOFR Based Transaction resulting from a Rate Conversion pursuant to Section 12.01(a) for which the Applicable SOFR designated in the related notice of Rate Conversion is the SOFR Average), initially, 30-Day SOFR Average; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to 30-Day SOFR Average or the then-current Benchmark in accordance with Section 12.01(b) for purposes of this clause (B), then, for purposes of this clause (B), "Benchmark" shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 12.01, and (C) with respect to any SOFR Based Transaction for which the Applicable SOFR is initially Term SOFR (including, without limitation, any such SOFR Based Transaction resulting from a Rate Conversion pursuant to Section 12.01(a) for which the Applicable SOFR designated in the related notice of Rate Conversion is Term SOFR), initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark in accordance with Section 12.01(b) for purposes of this clause (C), then, for purposes of this clause (C), "Benchmark" shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 12.01.

"Benchmark Replacement": With respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by Buyer as a replacement of the applicable then-current Benchmark as of the Benchmark Replacement Date:

(1) (A) if such then-current Benchmark is the 30-Day SOFR Average, the sum of: (i) Term SOFR and (ii) the Benchmark Replacement Adjustment; or (B) if such then-current Benchmark is the Term SOFR Reference Rate, the sum of: (i) SOFR Average and (ii) the Benchmark Replacement Adjustment; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by Buyer as the replacement for the then-current Benchmark and (b) the related Benchmark Replacement Adjustment;

provided that, in each case, if such Benchmark Replacement as so determined would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Repurchase Documents.

“Benchmark Replacement Adjustment”: With respect to any replacement of the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable) with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Buyer.

“Benchmark Replacement Conforming Changes”: With respect to any Benchmark Replacement or Rate Conversion, any technical, administrative or operational changes (including changes to the definition of “Business Day”, “Pricing Rate,” the definition of “Pricing Period,” timing and frequency of determining rates and making payments of Price Differential, prepayment provisions, early repurchases, and other technical, administrative or operational matters) that Buyer decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement or Rate Conversion, and to permit the administration thereof by Buyer in a manner substantially consistent with market practice (or, if Buyer decides that adoption of any portion of such market practice is not administratively feasible or if Buyer determines that no market practice for the administration of the Benchmark Replacement or Rate Conversion exists, in such other manner of administration as Buyer decides is reasonably necessary in connection with the administration of this Agreement and the other Repurchase Documents).

“Benchmark Replacement Date”: With respect to any Benchmark(as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), the earliest to occur of the following events with respect to such Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark permanently or indefinitely ceases to provide such Benchmark; or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark has been determined and announced by the regulatory supervisor for the administrator of such Benchmark to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) even if such Benchmark continues to be provided on such date.

“Benchmark Transition Event”: With respect to any Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), the occurrence of one or more of the following events with respect to such Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark announcing that such administrator has ceased or will cease to provide such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, which states that the administrator of such Benchmark has ceased or will cease to provide such Benchmark permanently or indefinitely, provided that, at the time of such statement or

publication, there is no successor administrator that will continue to provide such Benchmark; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark announcing that such Benchmark is not, or as of a specified future date will not be, representative.

"Beneficial Ownership Certification": A certification regarding beneficial ownership as required by the Beneficial Ownership Regulation in a form as agreed to by Buyer.

"Beneficial Ownership Regulation": 31 C.F.R. § 1010.230.

"BHC Act Affiliate": The meaning assigned to the term "affiliate" in, and interpreted in accordance with, 12 U.S.C. § 1841(k).

"Blank Assignment Documents": Defined in Section 6.02(j).

"Book Value": For each Purchased Asset, as of any date, an amount, as certified by the related Seller in the related Confirmation, equal to the lesser of (a) the outstanding principal amount or par value thereof as of such date (after giving effect to any additional advances to the related primary Underlying Obligor made by a Seller in connection with such Seller's future funding obligations pursuant to the Purchased Asset Documents on or prior to such date), and (b) the price that such Seller initially paid or advanced in respect thereof plus any additional amounts advanced by such Seller that were funded in connection with such Seller's future funding obligations under the related Purchased Asset Documents minus Principal Payments received by such Seller and as further reduced by losses realized and write downs taken by such Seller, together with all other reductions in the unpaid balance due in connection with the related Whole Loan (including, with respect to any Senior Interest that is a participation, any reduction in the principal balance of the related Whole Loan).

"Business Day": Any day other than (a) a Saturday or a Sunday, (b) a day on which banks in the States of New York, Minnesota, California, Illinois or North Carolina are authorized or obligated by law or executive order to be closed, (c) any day on which the New York Stock Exchange, the Federal Reserve Bank of New York or Custodian is authorized or obligated by law or executive order to be closed, or (d) if the term "Business Day" is used in connection with the determination of LIBOR, a day dealings in Dollar deposits are not carried on in the London interbank market.

"Buyer": Wells Fargo Bank, National Association, in its capacity as Buyer under this Agreement and the other Repurchase Documents, and also in its capacity as counterparty to any Interest Rate Protection Agreement.

"Capital Lease Obligations": With respect to any Person, the amount of all obligations of such Person to pay rent or other amounts under a lease of property to the extent and in the amount that such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person.

"Capital Stock": Any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent equity ownership interests in a Person which is not a corporation, including, without limitation, any and all member or other equivalent interests (certificated or uncertificated) in any limited liability company, and any and all partnership or other equivalent interests in any partnership or limited partnership, and any and all warrants or options to purchase any of the foregoing.

"Cause" means, with respect to an Independent Director or Independent Manager, (i) acts or omissions by such Independent Director or Independent Manager that constitute willful disregard of, or bad faith or gross negligence with respect to, such Independent Director or Independent Manager's duties under the applicable by-laws, limited partnership agreement or limited liability company agreement, (ii) that such Independent Director or Independent Manager has engaged in or has been charged with, or has been convicted of, fraud or other acts constituting a crime under any law applicable to such Independent Director or Independent Manager, (iii) that such Independent Director or Independent Manager is unable to perform his or her duties as Independent Director or Independent Manager due to death, disability or incapacity, or (iv) that such Independent Director or Independent Manager no longer meets the definition of Independent Director or Independent Manager.

"Change of Control": The occurrence of any of the following events: (a) any "person" or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of a percentage of the total voting power of all classes of Capital Stock of Guarantor entitled to vote generally in the election of directors, of thirty-five percent (35%) or more; (b) Guarantor shall cease to own and control, of record and beneficially, directly or indirectly one-hundred percent (100%) of the outstanding Capital Stock of either Seller, or (c) Manager shall cease to be one-hundred percent (100%) owned and controlled, of record and beneficially, by Ares Management L.P. or one or more of its Affiliates.

"Class": With respect to an Asset, such Asset's classification as one of the following: Whole Loan, Senior Interest or Mezzanine Loan.

"Closing Certificate": A true and correct certificate in the form of Exhibit D, executed by a Responsible Officer of the applicable Seller.

"Closing Date": February 10, 2022.

"Closing Date Repurchase Documents": This Agreement, the Fee Letter and the Guarantee Agreement.

"Code": The Internal Revenue Code of 1986, and the regulations promulgated and rulings issued thereunder, in each case as amended, modified or replaced from time to time.

"Collection Account": Any account established by Interim Servicer in connection with the servicing of any Asset or Purchased Asset.

"Compliance Certificate": A true and correct certificate in the form of Exhibit E, executed by a Responsible Officer of the applicable Seller.

"Compounded SOFR": The compounded average of daily SOFRs, for the Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate (which may include compounding in advance or compounding in arrears with a lookback and/or suspension period as a mechanism to determine the Price Differential amount payable prior to the end of each Pricing Period) being established by Buyer in accordance with:

(1) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR (either in advance or arrears, as applicable); provided that:

(2) if, and to the extent that, Buyer determines that Compounded SOFR cannot be determined in accordance with clause (1) above, then the rate, or methodology for this rate, and conventions for this rate that Buyer determines are substantially consistent with at least five (5) currently outstanding U.S. dollar-denominated syndicated or bilateral credit facilities at such time (as a result of amendment or as originally executed) that are publicly available for review;

provided, further, that if Buyer decides that any such rate, methodology or convention determined in accordance with clause (1) or clause (2) is not administratively feasible for Buyer, then Compounded SOFR will be deemed unable to be determined for purposes of the definition of "Benchmark Replacement".

"Confirmation": A purchase confirmation or amended and restated confirmation in the form of Exhibit B-1 or Exhibit B-2, in each case duly completed, executed and delivered by the applicable Seller and Buyer in accordance with this Agreement.

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

"Contingent Liabilities": With respect to any Person as of any date of determination, all of the following as of such date: (a) liabilities and obligations (including any Guarantee Obligations) of such Person in respect of "off balance sheet arrangements" (as defined in the Off Balance Sheet Rules defined below in this definition), (b) obligations of such Person, including Guarantee Obligations, whether or not required to be disclosed in the footnotes to such Person's financial statements, guaranteeing in whole or in part any Non–Recourse Indebtedness, lease, dividend or other obligation, excluding, however (i) contractual indemnities (including, any indemnity or price–adjustment provision relating to the purchase or sale of securities or other assets) and (ii) guarantees of non–monetary obligations that have not yet been called on or quantified, of such Person or any other Person, and (c) forward commitments or obligations to fund or provide proceeds with respect to any loan or other financing that is obligatory and non– discretionary on the part of the lender. The amount of any Contingent Liabilities described in the preceding clause (b) shall be deemed to be (i) with respect to a guarantee of interest or interest and principal, or operating income guarantee, the sum of all payments required to be made thereunder (which, in the case of an operating income guarantee, shall be deemed to be equal to the debt service for the note secured thereby), through (x) in the case of an interest or interest and principal guarantee, the stated date of maturity of the obligation (and commencing on the date interest could first be payable thereunder), or (y) in the case of an operating income guarantee, the date through which such guarantee will remain in effect, and (ii) with respect to all guarantees not covered by the preceding clause (i), an amount equal to the stated or determinable amount of the primary obligation in respect of which such guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as recorded on the balance sheet and in the footnotes to the most recent financial statements of such Person. "Off–Balance Sheet Rules" means the Disclosure in Management's Discussion and Analysis About Off–Balance Sheet Arrangements and Aggregate Contractual Obligations, Securities Act Release Nos. 33–8182; 34–47264; FR–67 International Series Release No. 1266 File No. S7–42–02, 68 Fed. Reg. 5982 (Feb. 5, 2003) (codified at 17 CFR Parts 228, 229 and 249).

"Contractual Obligation": With respect to any Person, any provision of any securities issued by such Person or any indenture, mortgage, deed of trust, deed to secure debt, contract, undertaking, agreement, instrument or other document to which such Person is a party or by which it or any of its property or assets are bound or are subject.

"Control": With respect to any Person, the direct or indirect possession of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling," "Controlled" and "under common Control" have correlative meanings.

"Controlled Account Agreement": An amended and restated control agreement with respect to the Waterfall Account, dated as of December 20, 2013, among each Seller, Buyer and Waterfall Account Bank, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Corresponding Tenor": With respect to a Benchmark Replacement, an approximately one-month tenor (including overnight) (disregarding Business Day adjustment)

"Credit Event": The determination by Buyer, in its commercially reasonable judgment, that any of the following events or any similar event, occurrence or condition has occurred: (i) an Insolvency Event with respect to any Underlying Obligor, (ii) any monetary or material non-monetary event of default under the terms of any Purchased Asset after giving effect to any applicable notice, grace or cure periods, (iii) failure of a Purchased Asset to qualify as an Eligible Asset, (iv) the deterioration in value of any Mortgaged Property relating to any Purchased Asset (other than due to fluctuations in current interest rates and spreads) such that the PPV Test with respect to any Purchased Asset is violated, (v) any drop in the net operating income or cash flow of any Purchased Asset or the Mortgaged Property related thereto such that a Margin Deficit with respect to any Purchased Asset exists in an amount greater than $500,000, (vi) the loss of any security interest (or the priority thereof) under this Agreement or any documents executed in connection with this Agreement, or any document executed in connection with any underlying Whole Loan, (vii) any Transaction fails to qualify for safe harbor treatment under the Bankruptcy Code, as described in Article 14 of this Agreement, (viii) any Seller fails to deliver the Mortgage Asset File to the Custodian within the applicable time periods provided in the Custodial Agreement, subject to any applicable cure periods set forth therein, (ix) any material breach of a representation or warranty with respect to any Purchased Asset occurs and is not cured within the applicable cure periods set forth in the documents executed in connection with the applicable underlying Mortgaged Property, (x) any statement, affirmation or certification made or information, document, agreement, report or notice delivered by either Seller to Buyer is untrue in any material respect, (xi) the Minimum Portfolio Debt Yield Test is violated, (xii) Buyer determines that a Material Adverse Effect has occurred or that such Purchased Asset is otherwise unlikely to be collectible on a timely basis and (xiii) to the extent Buyer and Seller agree to any performance thresholds with respect to such Purchased Asset, as set forth in the Confirmation for such asset, any breach or failure to satisfy such thresholds.

"Current Mark-to-Market Value": For any Purchased Asset as of any date, the market value for such Purchased Asset as of such date as determined by Buyer in its good faith judgment, taking into account such criteria as and to the extent that Buyer deems appropriate, including as appropriate, market conditions, credit quality, subordination, delinquency status and aging and any amounts owing to Buyer or a Hedge Counterparty under any related Interest Rate Protection Agreement, which market value, in each case, may be determined to be zero; provided that the Current Mark-to-Market Value of any Purchased Asset that ceases to be an Eligible Asset shall be deemed to be zero. For the avoidance of doubt, Buyer shall be permitted to mark Purchased Assets for internal purposes at any time.

"Custodial Agreement": The Amended and Restated Custodial Agreement, dated as of December 20, 2013 among Buyer, Sellers and Custodian, as the same may be amended, modified, waived, supplemented, extended, replaced or restated from time to time.

"Custodian": Wells Fargo Bank, National Association, or any successor permitted by the Custodial Agreement.

"Debt Yield": With respect to (a) any Purchased Asset for any relevant time period, the percentage equivalent of the quotient obtained by dividing (i) the annualized underwritten net operating income for such period, as determined by Buyer, from the mortgaged properties securing such Purchased Asset, by (ii) the Purchase Price of such Purchased Asset as of the last day of such time period and (b) all Purchased Assets for any relevant time period, the percentage equivalent of the quotient obtained by dividing (i) the annualized underwritten net operating income for such period, as determined by Buyer, from the mortgaged properties securing all Purchased Assets owned by Buyer at such time, by (ii) the Repurchase Price of all Purchased Assets owned by the Buyer at such time, as of the last day of such time period; provided, however, that Buyer shall calculate the Debt Yield with respect to Sellers in a manner consistent with other similar calculations with respect to counterparties that are also lenders and/or obligors under commercial real estate loans for which Buyer or its Affiliates is providing capital under agreements that are similar to this Agreement.

"Default": Any event that, with the giving of notice or the lapse of time, or both, would become an Event of Default.

"Default Rate": As of any date, the Prime Rate in effect on such date plus three and one-half percent (3.50%).

"Default Right": The meaning assigned to that term in, and interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"Defaulted Asset": Any Asset or Purchased Asset and, in the case of any Senior Interest or Mezzanine Loan, any related Whole Loan, as applicable, (a) that is thirty (30) or more days (or, in the case of payments due at maturity, one (1) day) delinquent in the payment of principal, interest, fees, distributions or any other amounts payable under the related Purchased Asset Documents, (b) for which there is a Representation Breach with respect to such Asset or Purchased Asset, other than an Approved Representation Exception, (c) for which there is a monetary default or a material non–monetary default under the related Purchased Asset Documents beyond any applicable notice or cure period, (d) as to which an Insolvency Event has occurred with respect to the related Underlying Obligor, or (e) for which any Seller or Interim Servicer has received notice of the foreclosure or proposed foreclosure of any Lien on the related underlying Mortgaged Property; provided that with respect to any Senior Interest or Mezzanine Loan, in addition to the foregoing, such Senior Interest or Mezzanine Loan will also be considered a Defaulted Asset to the extent that the related Whole Loan would be considered a Defaulted Asset as described in this definition.

"Delaware LLC Act": Chapter 18 of the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 et seq., as amended.

"Derivatives Contract": Any rate swap transaction, basis swap, credit derivative transaction, forward rate transaction, commodity swap, commodity option, forward commodity contract, equity or equity index swap or option, bond or bond price or bond index swap or option or forward bond or forward bond price or forward bond index transaction, interest rate option, forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross–currency rate swap transaction, currency option, spot contract, or any other similar transaction 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, including any obligations or liabilities thereunder.

"Derivatives Termination Value": With respect to any one or more Derivatives Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Derivatives Contracts, (a) for any date on or after the date such Derivatives 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 the preceding clause (a), the amount(s) determined as the mark–to–market value(s) for such Derivatives Contracts, as determined based on one or more mid–market or other readily available quotations provided by any recognized dealer in such Derivatives Contracts (which may include Buyer).

"Dividing LLC": A Delaware limited liability company that is effecting a Division pursuant to and in accordance with Section 18-217 of the Delaware LLC Act.

"Division": The division of a Dividing LLC into two or more domestic limited liability companies pursuant to and in accordance with Section 18-217 of the Delaware LLC Act.

"Division LLC": A surviving company, if any, and each resulting company, in each case that is the result of a Division.

"Dollars" and "$": Lawful money of the United States of America.

"Early Opt-in Effective Date": With respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Sellers.

"Early Opt-in Election": The election by Buyer to trigger a fallback from the then-current Benchmark and the provision by Buyer of written notice of such election to Sellers.

"Early Repurchase Date": Defined in Section 3.04.

"EBITDA": With respect to any Person and for any Test Period, an amount equal to the sum of (a) Net Income (or loss) of such Person (prior to any impact from minority or non-controlling interests or joint venture net income and before deduction of any dividends on preferred stock of such Person), plus the following (but only to the extent actually included in determination of such Net Income (or loss)): (i) depreciation and amortization expense (other than those related to capital expenditures that have not been included in the calculation of Fixed Charges as defined in the Guarantee Agreement), (ii) Interest Expense, (iii) income tax expense, (iv) extraordinary or non-recurring gains, losses and expenses including but not limited to transaction expenses relating to business combinations, other acquisitions and unconsummated transactions, (v) unrealized loan loss reserves, impairments and other similar charges including but not limited to reserves for loss sharing arrangement associated with mortgage servicing rights, (vi) realized losses on loans and loss sharing arrangements associated with mortgage servicing rights and (vii) unrealized gains, losses and expenses associated with (A) derivative liabilities including but not limited to convertible note issuances and (B) mortgage servicing rights (other than the initial revenue recognition of recording an asset), plus (b) such Person's proportionate share of Net Income (prior to any impact from minority or non-controlling interests or joint venture net income and before deduction of any dividends on preferred stock of such Person) of the joint venture investments and unconsolidated Affiliates of such Person, all with respect to such period.

"Eligible Asset": An Asset:

(a) that has been approved as a Purchased Asset by Buyer;

(b) with respect to which no Representation Breach exists unless each such breach is specifically set forth as a specific Approved Representation Exception in the related Confirmation that has been approved in advance by Buyer;

(c) that is not a Defaulted Asset;

(d) with respect to which there are no future funding obligations other than in respect of which the applicable Seller has agreed to fund solely or as specifically approved in advance by Buyer in the related Confirmation;

(e) that satisfies the applicable PPV Test;

(f) in the case of any Hotel Asset, (i) Buyer has received a copy of the franchise agreement and related documents for operation of the hotel under the national flag, all reports issued by the franchisor and a comfort letter from the franchisor running to the benefit of successors and assigns of the lender and (ii) the hotel is managed by a third party manager under a management agreement and subordination of management agreement, all of which are acceptable to Buyer;

(g) if the Class of such Asset is a Senior Interest that is a non-controlling participation interest, such Asset is an Eligible NCPPP;

(h) whose underlying Mortgaged Property is located in the United States, whose Underlying Obligors are domiciled in the United States, and all obligations thereunder and under the underlying Purchased Asset Documents are denominated and payable in Dollars;

(i) with respect to which all Underlying Obligors thereon (an any of their respective Affiliates) are not Sanctioned Targets;

(j) that does not involve an Equity Interest by either Seller, Guarantor or any Affiliate of either Seller or Guarantor that would result in (i) an actual or potential conflict of interest, (ii) an affiliation with an Underlying Obligor which results or could result in the loss or impairment of any material rights of the holder of the related Purchased Asset; provided, the applicable Seller shall disclose to Buyer before the Purchase Date each Equity Interest held or to be held by any Seller, Guarantor or any Affiliate of any Seller or Guarantor with respect to such related Purchased Asset whether or not it satisfies either of the preceding clauses (i) or (ii);

(k) that is secured by a perfected, first priority (subject to Permitted Liens) security interest on a "stabilized" or "light transitional" office, retail, self-storage, student housing, industrial, other commercial or multi-family property or, in the case of a Mezzanine Loan, is secured by first priority pledges of all of the Equity Interests of Persons that directly or indirectly own any such property;

(l) that, if purchased by Buyer, would not cause either Seller to violate any Sub-Limit; and

(m) for which each of the conditions precedent set forth in Section 6.02 have been satisfied;

provided, that notwithstanding the failure of an Asset or Purchased Asset to conform to the requirements of this definition, Buyer may, subject to such terms, conditions and requirements and Applicable Percentage adjustments as Buyer may require, designate in writing any such non–conforming Asset or Purchased Asset as an Eligible Asset, which designation (1) may include a temporary or permanent asset-specific waiver of one or more Eligible Asset

requirements, and (2) shall not be deemed a waiver of the requirement that all other Assets and Purchased Assets must be Eligible Assets (including any Assets that are similar or identical to the Asset or Purchased Asset subject to the waiver). For the avoidance of doubt, Buyer's agreement to accept an Asset with a future funding obligation shall be deemed to be a permanent waiver of clause (d) of the definition of Eligible Asset with respect to such Asset, provided, however that such waiver shall not be deemed a waiver of such requirement with respect to any other Asset or Purchased Asset.

"Eligible Assignee": Any of the following Persons designated by Buyer for purposes of Section 18.08: (a) a bank, financial institution, pension fund, insurance company or similar Person, an Affiliate of any of the foregoing, and an Affiliate of Buyer, and (b) any other Person to which the related Seller has consented; provided, that the consent of such Seller shall not be unreasonably withheld, delayed or conditioned, except, so long as no Event of Default has occurred and is continuing, in the case of competitors or potential competitors of a Seller listed on Exhibit I hereto, and shall not be required at any time when an Event of Default exists.

"Eligible NCPPP": A non-controlling participation interest that meets each of the following criteria at all times: (i) the related Whole Loan was subject to a Transaction immediately prior to the participation of such Whole Loan, (ii) the controlling interest in, and the ability to control and make all material decisions with respect to, such Whole Loan is held by a securitization trust (or trustee on its behalf) in connection with a capital markets transaction issued by an Affiliate of Seller and (iii) following the participation of the related Whole Loan, no Material Modification has been made with respect to such Whole Loan or the related participation agreement without first obtaining the prior written consent of Buyer.

"Environmental Laws": Any federal, state, foreign or local statute, law, rule, regulation, ordinance, code, guideline, written policy and rule of common law now or hereafter in effect, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, employee health and safety or hazardous materials, including CERCLA, RCRA, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act, the Oil Pollution Act of 1990, the Emergency Planning and the Community Right-to-Know Act of 1986, the Hazardous Material Transportation Act, the Occupational Safety and Health Act, and any state and local or foreign counterparts or equivalents.

"Equity Interests": With respect to any Person, (a) any share, interest, participation and other equivalent (however denominated) of Capital Stock of (or other ownership, equity or profit interests in) such Person, (b) any warrant, option or other right for the purchase or other acquisition from such Person of any of the foregoing, (c) any security convertible into or exchangeable for any of the foregoing, and (d) any other ownership or profit interest in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such share, warrant, option, right or other interest is authorized, but unissued on any date.

"ERISA": The Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder. Section references to ERISA are to ERISA, as in effect at the date of this Agreement and, as of the relevant date, any subsequent provisions of ERISA, amendatory thereof, supplemental thereto or substituted therefor.

"Event of Default": Defined in Section 10.01.

"Exchange Act": The Securities Exchange Act of 1934, as amended.

"Excluded Taxes": Any of the following Taxes imposed on or with respect to Buyer or required to be withheld or deducted from a payment to Buyer: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of Buyer being organized under the laws of, or having its principal office or the office from which it books the Transactions located in, the jurisdiction imposing such Taxes (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of Buyer with respect to an interest in the Repurchase Obligations pursuant to a law in effect on the date on which such Buyer (i) acquires such interest in the Repurchase Obligations or (ii) changes the office from which it books the Transactions, except in each case to the extent that, pursuant to Section 12.06, amounts with respect to such Taxes were payable either to such Buyer's assignor immediately before such Buyer became a Party hereto or to such Buyer immediately before it changed the office from which it books the Transactions, (c) Taxes attributable to Buyer's failure to comply with Section 12.06(e) and (d) any Taxes imposed under FATCA.

"Exempted Transactions": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Exit Fee": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Extension Condition": Defined in Section 3.06(a).

"Extension Fee": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Extension Period": The First Extension Period, Second Extension Period or Third Extension Period, as applicable.

"Facility Termination Date": The earliest of (a) the Initial Facility Termination Date, as such date may be extended pursuant to Section 3.06(a), (b) any Accelerated Repurchase Date, and (c) any date on which the Facility Termination Date shall otherwise occur in accordance with the Repurchase Documents or Requirements of Law.

"FATCA": 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 or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code (or any amended or successor version described above) and any intergovernmental agreements (and any related laws or official administrative guidance) implementing the foregoing.

"FDIA": Defined in Section 14.03.

"FDICIA": Defined in Section 14.04.

"Fee Letter": The Fifth Amended and Restated Fee and Pricing Letter, dated as of the Closing Date, among Buyer and Sellers, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Fitch": Fitch, Inc. or, if Fitch, Inc. is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

"First Extended Facility Termination Date": December 14, 2023.

"First Extension Period": The period commencing on the day immediately following the Initial Facility Termination Date and ending on the First Extended Facility Termination Date.

"Floor": The greater of (a) zero (0) and (b) such higher amount as may be specified with respect to any Transaction in the related Confirmation (or amended and restated Confirmation, as applicable).

"Foreign Buyer": A Buyer that is not a U.S. Person.

"Funding Period": The period in existence as of the Closing Date to and including (x) if Buyer has granted the Funding Period Extension Option, the First Extended Facility Termination Date or (y) if Buyer has not granted the Funding Period Extension Option, the Initial Facility Termination Date.

"Funding Period Extension Option": Defined in Section 3.06(b).

"Future Funding Amount": With respect to any Future Funding Transaction, the additional Purchase Price funded by Buyer to Seller in connection with such Future Funding Transaction.

"Future Funding Request Package": With respect to one or more Future Funding Transactions, the following: (a) the related request for a future funding advance, executed by the related Underlying Obligor (which shall include either therein or separately evidence of Sellers' approval of the related Future Funding Transaction), and any other documents that are required to be delivered to Sellers pursuant to the related Purchased Asset Documents in connection with such future funding advance (including, without limitation, an endorsement to the related title policy); (b) a certification by Sellers that all conditions precedent to such future funding advance under the related Purchased Asset Documents have been satisfied in all material respects; and (c) to the extent available and requested by Buyer, (i) updated financial statements, operating statements and rent rolls, (ii) engineering reports and updates to the engineering reports and (iii) an updated Underwriting Package for the related Purchased Asset.

"Future Funding Transaction": Any Transaction entered into by Buyer subject to, and in accordance with, the terms of Section 3.11.

"Future Funding Transaction Conditions": Defined in Section 3.11(a)(ii).

"GAAP": Generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"General Repo Account": The bank account of Buyer described on Schedule 2 hereto.

"Governing Documents": With respect to any Person, its articles or certificate of incorporation or formation, by-laws, partnership, limited liability company, memorandum and articles of association, operating or trust agreement and/or other organizational, charter or governing documents.

"Governmental Authority": Any (a) national or federal government, (b) state, regional or local or other political subdivision thereof, (c) central bank or similar monetary or regulatory authority, (d) Person, agency, authority, instrumentality, court, regulatory body, central bank or other body or entity exercising executive, legislative, judicial, taxing, quasi– judicial, quasi–legislative, regulatory or administrative functions or powers of or pertaining to

government, (e) court or arbitrator having jurisdiction over such Person, its Affiliates or its assets or properties, (f) stock exchange on which shares of stock of such Person are listed or admitted for trading, (g) accounting board or authority that is responsible for the establishment or interpretation of national or international accounting principles, and (h) supra-national body such as the European Union or the European Central Bank.

"Ground Lease": A ground lease containing the following terms and conditions: (a) a remaining term (exclusive of any unexercised extension options) of twenty (20) years or more from the Purchase Date of the related Asset, (b) the right of the lessee to mortgage and encumber its interest in the leased property without the consent of the lessor or with such consent given, (c) the obligation of the lessor to give the holder of any mortgage lien on such leased property written notice of any defaults on the part of the lessee and agreement of such lessor that such lease will not be terminated until such holder has had a reasonable opportunity to cure or complete foreclosures, and fails to do so, (d) reasonable transferability of the lessee's interest under such lease, including ability to sublease, and (e) such other rights customarily required by mortgagees making a loan secured by the interest of the holder of the leasehold estate demised pursuant to a ground lease.

"Guarantee Agreement": The Second Amended and Restated Guarantee Agreement, dated as of February 10, 2022, made by Guarantor in favor of Buyer, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Guarantee Obligation": With respect to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit) to induce the creation of the obligations for which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends, Contractual Obligation, Derivatives Contract or other obligations or Indebtedness (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation, or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term "Guarantee Obligation" shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the maximum stated amount of the primary obligation relating to such Guarantee Obligation (or, if less, the maximum stated liability set forth in the instrument embodying such Guarantee Obligation); and provided, further, that in the absence of any such stated amount or stated liability, the amount of such Guarantee Obligation shall be such guaranteeing person's maximum anticipated liability in respect thereof as reasonably determined by such Person.

"Guarantor": Ares Commercial Real Estate Corporation, a Maryland corporation.

"Hedge Counterparty": Either (a) an Affiliated Hedge Counterparty, or (b) or any other counterparty, approved by Buyer, to any Interest Rate Protection Agreement with a Seller, in either case which agreement contains a consent satisfactory to Buyer to the collateral assignment to Buyer of the rights (but none of the obligations) of such Seller thereunder.

"Hedge Required Asset": A Purchased Asset that has a fixed rate of interest or return.

"Hotel Assets": All Assets that are secured by underlying Mortgaged Properties consisting primarily of hotel properties.

"Income": With respect to any Purchased Asset, all of the following (in each case with respect to the entire par amount of the Asset represented by such Purchased Asset and not just with respect to the portion of the par amount represented by the Purchase Price advanced against such Asset), without duplication: (a) all Principal Payments, (b) all Interest Payments, (c) all other income, distributions, receipts, payments, collections, prepayments, recoveries, proceeds (including insurance and condemnation proceeds) and other payments or amounts of any kind paid, received, collected, recovered or distributed on, in connection with or in respect of such Purchased Asset, including Principal Payments, Interest Payments, principal and interest payments, prepayment fees, extension fees, exit fees, defeasance fees, transfer fees, make whole fees, late charges, late fees and all other fees or charges of any kind or nature, premiums, yield maintenance charges, penalties, default interest, dividends, gains, receipts, allocations, rents, interests, profits, payments in kind, returns or repayment of contributions, net sale, foreclosure, liquidation, securitization or other disposition proceeds, insurance payments, settlements and proceeds, and (d) all payments received from Hedge Counterparties pursuant to Interest Rate Protection Agreements related to such Purchased Asset; provided, that any amounts that under the applicable Purchased Asset Documents are required to be deposited into and held in escrow or reserve to be used for a specific purpose, such as taxes and insurance, shall not be included in the term "Income" unless and until (i) an event of default exists under such Purchased Asset Documents, (ii) the holder of the related Purchased Asset has exercised or is entitled to exercise rights and remedies with respect to such amounts, (iii) such amounts are no longer required to be held for such purpose under such Purchased Asset Documents, or (iv) such amounts may be applied to all or a portion of the outstanding indebtedness under such Purchased Asset Documents.

"Indebtedness": With respect to any Person and any date, all of the following with respect to such Person as of such date, without duplication: (a) all then outstanding indebtedness of such Person for borrowed money (whether by loan or the issuance and sale of debt securities) or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (b) obligations, whether or not for money borrowed, incurred in connection with the issuance of preferred equity or trust preferred securities, (c) any other then outstanding indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (d) all Capital Lease Obligations, (e) all then outstanding obligations of such Person in respect of letters of credit other than standby letters of credit, acceptances or similar instruments issued or created for the account of such Person, (f) all then outstanding liabilities secured by any Lien on any property owned by such Person, other than standby letters of credit, even though such Person has not assumed or otherwise become liable for the payment thereof, (g) Off–Balance Sheet Obligations, (h) as applicable, all obligations of such Person (but not the obligation of others) in respect of any keep well arrangements, credit enhancements, contingent or future funding obligations under any Purchased Asset or any obligation senior to any Purchased Asset, unfunded interest reserve amount under any Purchased Asset or any obligation that is senior to any Purchased Asset, purchase obligation, repurchase obligation, sale/buy–back agreement, takeout commitment or forward equity commitment, in each case evidenced by a binding agreement (excluding any such obligation to the extent the obligation can be satisfied by the issuance of Equity Interests (other than mandatory redeemable stock)), (i) net obligations under any Derivatives Contract not entered into as a hedge against existing indebtedness, in an amount equal to the Derivatives Termination Value thereof, (j) all Non–Recourse Indebtedness, recourse indebtedness and all indebtedness of other Persons that such Person has guaranteed or is otherwise recourse to such

Person, (k) all Contingent Liabilities, (l) obligations to fund capital commitments under any Governing Document, subscription agreement or otherwise, and (m) indebtedness of general partnerships of which such Person is liable as a general partner (whether secondarily or contingently liable or otherwise).

"Indemnified Amounts": Defined in Section 13.01(a).

"Indemnified Persons": Defined in Section 13.01(a).

"Indemnified Taxes": (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Seller under any Repurchase Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Independent Appraiser": An independent professional real estate appraiser who is a member in good standing of the American Appraisal Institute, and, if the state in which the subject underlying Mortgaged Property is located certifies or licenses appraisers, is certified or licensed in such state, and in each such case, who has a minimum of five years experience in the subject property type (unless otherwise approved in writing by Buyer).

"Independent Director" or "Independent Manager": An individual who has prior experience as an independent director, independent manager or independent member with at least three (3) years of employment experience and who is provided by CT Corporation, Corporation Service Company, MaplesFS, Global Securitization Services LLC, Puglisi & Associates, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company, or Lord Securities Corporation or, if none of those companies is then providing professional Independent Directors or Independent Managers, another nationally recognized company approved by Buyer, in each case that is not an Affiliate of Seller and that provides professional independent directors, independent managers and/or other corporate services in the ordinary course of its business, and which individual is duly appointed as Independent Director or Independent Manager and is not, and will not while serving as Independent Director or Independent Manager be and may not have been at any time in the preceding five (5) years, any of the following:

(a) a member, partner, equity holder, manager, director, officer or employee of Seller, Pledgor, or any of their respective equity holders or Affiliates (other than as an Independent Director or Independent Manager of Seller or Pledgor or an Affiliate of Seller or Pledgor that does not own a direct or indirect ownership interest in Seller or Pledgor and that is required by a creditor to be a single purpose bankruptcy remote entity, provided, however, that such Independent Director or Independent Manager is employed by a company that routinely provides professional Independent Directors or Independent Managers);

(b) a creditor, supplier or service provider (including provider of professional services) to Seller, Pledgor or any of their respective equity holders or Affiliates (other than through a nationally recognized company that routinely provides professional Independent Directors, Independent Managers and/or other corporate services to Seller, Pledgor, or any of their respective equity holders or Affiliates in the ordinary course of business);

(c) a family member of any such member, partner, equity holder, manager, director, officer, employee, creditor, supplier or service provider; or

(d) a Person who controls (whether directly, indirectly or otherwise) any of the individuals described in the preceding clauses (a) or (b).

An individual who otherwise satisfies the preceding definition and satisfies subparagraph (a) by reason of being the Independent Director or Independent Manager of a "special purpose entity" affiliated with Seller or Pledgor that does not own a direct or indirect ownership interest in Seller or Pledgor shall be qualified to serve as an Independent Director or Independent Manager of Seller or Pledgor if the fees that such individual earns from serving as Independent Director or Independent Manager of Affiliates of Seller or Pledgor in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year. For purposes of this paragraph, a "special purpose entity" is an entity whose organizational documents contain restrictions on its activities and impose requirements intended to preserve such entity's separateness that are substantially similar to the provisions of Article 9 hereof.

"Independent Manager Provisions": With respect to a Person, provisions within the Governing Documents for such Person that such Person shall (1) not, without the prior unanimous written consent of all of its Independent Directors or Independent Managers, take any Insolvency Action, (2) (I) have at all times at least one (1) Independent Director or Independent Manager whose vote is required to take any Insolvency Action, and (II) provide Buyer with up to date contact information for each such Independent Director or Independent Manager and a copy of the agreement pursuant to which such Independent Director or Independent Manager consents to and serves as an "Independent Director" or "Independent Manager" for such Person; (3) have Governing Documents that provide that for so long as any Repurchase Obligations remain outstanding, it shall abide by the (I) the Independent Manager or Independent Director may be removed only for Cause, (II) that Buyer be given at least two (2) Business Days prior notice of the removal and/or replacement of any Independent Director or Independent Manager, together with the name and contact information of the replacement Independent Director or Independent Manager and evidence of the replacement's satisfaction of the definition of Independent Director or Independent Manager, (III) that, to the fullest extent permitted by law, and notwithstanding any duty otherwise existing at law or in equity, any Independent Director or Independent Manager shall consider only the interests of each applicable Person, including its respective creditors, in acting or otherwise voting on the Insolvency Action, and (IV) that, except for duties to each applicable Person as set forth in the immediately preceding clause (including duties to the holders of the Equity Interests in such Person or such Person's respective creditors solely to the extent of their respective economic interests in each applicable Person, but excluding (A) all other interests of the holders of the Equity Interests in each applicable Person, (B) the interests of other Affiliates of each applicable Person, and (C) the interests of any group of Affiliates of which each applicable Person is a part), the Independent Directors or Independent Managers shall not have any fiduciary duties to the holders of the Equity Interests in each applicable Person, any officer or any other Person bound by the Governing Documents.

"Initial Facility Termination Date": December 14, 2022.

"Insolvency Action": With respect to any Person, the taking by such Person of any action resulting in an Insolvency Event, other than solely under clause (g) of the definition thereof.

"Insolvency Event": With respect to any Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises with respect to such Person or any substantial part of its assets or property in an involuntary case under any applicable Insolvency Law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its assets or property, or ordering the winding–up or liquidation of such Person's affairs, and such decree or order shall remain unstayed and in effect for a period of thirty (30) days, (b) the commencement by such Person of a voluntary case under any applicable Insolvency Law now or hereafter in effect, (c) the consent by such Person to the entry of an order for relief in an involuntary case under any Insolvency Law, (d) the consent by such Person to the appointment of or taking possession by a

receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its assets or property, (e) the making by such Person of any general assignment for the benefit of creditors, (f) the admission in a legal proceeding of the inability of such Person to pay its debts generally as they become due, (g) the failure by such Person generally to pay its debts as they become due, or (h) the taking of action by such Person in furtherance of any of the foregoing; provided that, for purposes of this clause (h), the mere request or receipt of advice from advisors shall not constitute the taking of action in furtherance of any of the foregoing.

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

"Insolvency Proceeding": Any case, action or proceeding before any court or other Governmental Authority relating to any Insolvency Event.

"Interest Expense": With respect to any Person and for any Test Period, the amount of total interest expense incurred by such Person, including capitalized or accruing interest (but excluding interest funded under a construction loan, the amortization of financing costs, and the payment of origination fees), plus such Person's proportionate share of interest expense from the joint venture investments and unconsolidated Affiliates of such Person, all with respect to such period.

"Interest Payments": With respect to any Purchased Asset, all payments of interest, income, receipts, dividends, and any other collections and distributions received from time to time in connection with any such Purchased Asset.

"Interest Rate Protection Agreement": With respect to any or all Purchased Assets, any futures contract, options related contract, short sale of United States Treasury securities or any interest rate swap, cap, floor or collar agreement, total return swap or any other similar arrangement providing for protection against fluctuations in interest rates or the exchange of nominal interest obligations either generally or under specific contingencies, in each case with a Hedge Counterparty and that is acceptable to Buyer. For the avoidance of doubt, any Interest Rate Protection Agreement with respect to a Purchased Asset shall be included in the definitions of "Purchased Asset" and "Repurchase Document."

"Interim Servicer": Barings Multifamily Capital LLC, a Michigan limited liability company, or any other Interim Servicer mutually agreed upon by Buyer and Seller.

"Interim Servicer Event of Default": With respect to Interim Servicer, (a) any default or event of default (however defined) under the Servicing Agreement among Sellers, Interim Servicer and Buyer, or (b) any failure of Interim Servicer to be rated by a Rating Agency as an approved servicer of commercial mortgage loans

"Internal Control Event": Fraud that involves management or other employees who have a significant role in the internal controls of either Seller, Guarantor or any Specified Affiliate over financial reporting.

"Investment": With respect to any Person, any acquisition or investment (whether or not of a controlling interest) by such Person, whether by means of (a) the purchase or other acquisition of any Equity Interest in another Person, (b) a loan, advance or extension of credit to, capital contribution to, guaranty or credit enhancement of Indebtedness of, or purchase or other acquisition of any Indebtedness of, another Person, including any partnership or joint venture

interest in 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 the business or a division or operating unit of another Person. Any binding commitment or option to make an Investment in any other Person, which commitment or opinion is able to be exercised prior to the current Facility Termination Date, shall constitute an Investment. Except as expressly provided otherwise, for purposes of determining compliance with any covenant contained in this Agreement, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Company Act": The Investment Company Act of 1940, as amended, restated or modified from time to time, including all rules and regulations promulgated thereunder.

"Irrevocable Redirection Notice": A notice in the form of Exhibit H, sent by the related Seller or by Interim Servicer on such Seller's behalf directing the remittance of Income with respect to a Purchased Asset to the Collection Account or Waterfall Account, as applicable, and executed by the Interim Servicer with respect to such Purchased Asset.

"ISDA Definitions": The 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

"Knowledge": With respect to any Person, means collectively (i) the Actual Knowledge of such Person, (ii) notice of any fact, event, condition or circumstance that would cause a reasonably prudent Person to conduct an inquiry that would give such Person Actual Knowledge, whether or not such Person actually undertook such an inquiry, and (iii) all knowledge that is imputed to a Person under any statute, rule, regulation, ordinance, or official decree or order.

"LIBOR": The rate of interest per annum determined by Buyer on the basis of the rate for deposits in Dollars for delivery on the first (1st) day of each Pricing Period, for a one-month period commencing on (and including) the first day of such Pricing Period and ending on (but excluding) the same corresponding date in the following month, as reported on Reuters Screen Libor01 Page (or any successor page) at approximately 11:00 a.m., London time, on the Pricing Rate Determination Date (or if not so reported, then as determined by Buyer from another recognized source or interbank quotation); provided, that in no event shall LIBOR be less than the Floor. Each calculation by Buyer of LIBOR shall be conclusive and binding for all purposes, absent manifest error.

"LIBOR Based Pricing Rate Determination Date": (a) In the case of the first Pricing Period for any Purchased Asset, the related Purchase Date for such Purchased Asset, and (b) in the case of each subsequent Pricing Period, two (2) Business Days prior to the Remittance Date on which such Pricing Period begins or on any other date as determined by Buyer and communicated to Sellers. The failure to communicate shall not impair Buyer's decision to reset the Pricing Rate on any date.

"LIBOR Based Transaction": Subject to Section 12.01(a), (A) for which the related Purchase Date occurred prior to the Closing Date (and with respect to which Buyer and Sellers have not entered into an amended and restated Confirmation following the Closing Date expressly re-designating such Transaction as a "SOFR Based Transaction") or (B) any Transaction that is expressly designated as a "LIBOR Based Transaction" in the related Confirmation therefor; provided that, for the avoidance of doubt, from and after the Rate

Conversion Effective Date, all Transactions under this Agreement shall be SOFR Based Transactions for all purposes of this Agreement and the Repurchase Documents, and no Transactions hereunder shall be LIBOR Based Transactions.

"LIBOR Reference Time": Means, with respect to any Pricing Period, 11:00 a.m. (London time) on the LIBOR Based Pricing Rate Determination Date applicable thereto.

"Lien": Any mortgage, statutory or other lien, pledge, charge, right, claim, adverse claim, attachment, levy, hypothecation, assignment, deposit arrangement, security interest, UCC financing statement or encumbrance of any kind on or otherwise relating to any Person's assets or properties in favor of any other Person or any preference, priority or other security agreement or preferential arrangement of any kind.

"Manager": Ares Commercial Real Estate Management LLC.

"Margin Call": Defined in Section 4.01(a).

"Margin Deficit": Defined in Section 4.01(a).

"Margin Percentage": For any Purchased Asset as of any date, the percentage equivalent of the quotient obtained by dividing one (1) by the Applicable Percentage used to calculate the Purchase Price on the related Purchase Date.

"Market Value": For any Purchased Asset as of any date, the lower of the Current Mark-to-Market Value and the Book Value for such Purchased Asset as determined by Buyer in its commercially reasonable discretion; provided, that Buyer may set the Market Value to zero for any Purchased Asset with respect to which:

(a) the requirements of the definition of Eligible Asset are not satisfied, as determined by Buyer;

(b) a Representation Breach exists, as determined by Buyer;

(c) any Retained Interest, funding obligation or any other obligation of any kind has been transferred to Buyer;

(d) the related Seller fails to repurchase such Purchased Asset by the Repurchase Date therefor;

(e) an Insolvency Event has occurred with respect to any co-participant or other Person having an interest in such Purchased Asset;

(f) all Purchased Asset Documents have not been delivered to Custodian within the time periods required by this Agreement and the Custodial Agreement;

(g) any material Purchased Asset Document has been released from the possession of Custodian under the Custodial Agreement to a Seller for more than ten (10) days, except as contemplated by the Custodial Agreement;

(h) there is a violation of any applicable Sub-Limit;

(i) the applicable Seller fails to deliver any reports required hereunder within the applicable time periods after giving effect to any applicable grace or cure periods set forth

herein, where such failure adversely affects the Market Value thereof or Buyer's ability to determine Market Value therefor; or

(j) for each Purchased Asset originally acquired by the applicable Seller, from a Transferor, either (i) the original transfer to such Seller is or may be voidable or subject to avoidance under the Bankruptcy Code, or (ii) any of the material representations and warranties made by such Transferor to such Seller in the related Purchase Agreement are breached.

"Material Adverse Effect": A material adverse effect on or material adverse change in or to (a) the property, assets, business, operations, financial condition or credit quality of Guarantor or either Seller, (b) the ability of either Seller to pay and perform the Repurchase Obligations, (c) the validity, legality, binding effect or enforceability of any Repurchase Document, Purchased Asset Document with respect to any Purchased Asset, Purchased Asset or security interest granted hereunder or thereunder, (d) the rights and remedies of Buyer or any Indemnified Person under any Repurchase Document, Purchased Asset Document or Purchased Asset, (e) the Current Mark-to-Market Value, rating (if applicable), liquidity or other aspect of a material portion of the Purchased Assets, as determined by Buyer, or (f) the perfection or priority of any Lien granted under any Repurchase Document or Purchased Asset Document with respect to any Purchased Asset.

"Material Facility Default": Any monetary Default, any material non-monetary Default or any Event of Default.

"Material Modification": Any material extension, amendment, waiver, termination, rescission, cancellation, release or any other material modification to the terms of, or any collateral, guaranty or indemnity for, or any other action, direction or decision that could adversely affect the value or collectability of any amounts due with respect to the Purchased Assets, as determined by Buyer. Notwithstanding the foregoing, so long as no Material Facility Default or Event of Default has occurred, the applicable Seller (or Interim Servicer, on its behalf) shall have the right without the consent of Buyer in each instance to enter into any amendment, deferral, extension, modification, increase, decrease, renewal, replacement, consolidation, supplement or waiver of, or to exercise any rights of a holder under (collectively, a "Loan Modification"), the Purchased Asset Documents and such Loan Modification shall not constitute a Material Modification provided that the same does not:

(a) decrease the interest rate or principal amount of any Purchased Asset (except in the case of either required future advances or permitted protective advances) or defer or forebear from collecting any principal or interest (other than with respect to either a required future advance or a permitted protective advance);

(b) change in any other material respect any monetary obligations of any Underlying Obligor under the Purchased Asset Documents in any manner that could be adverse to the interests of Buyer;

(c) extend the scheduled maturity date or extended maturity date (except to the extent extended in accordance with the terms and provisions of the Purchased Asset Documents) of the Purchased Asset (except that the applicable Seller may permit an Underlying Obligor to exercise any extension options in accordance with the terms and provisions of the Purchased Asset Documents);

(d) convert or exchange a Purchased Asset into or for any other indebtedness or subordinate any of the Purchased Asset to any indebtedness of any Underlying Obligor;

(e) amend, modify or waive the provisions limiting transfers of interests in the Underlying Obligor or the underlying Mortgaged Property;

(f) amend, modify or waive in any material respect the terms and provisions of any cash management agreement or other Purchased Asset Document with respect to the manner, timing and method of the application of payments under the Purchased Asset Documents;

(g) cross default the Purchased Asset with any other indebtedness of any Underlying Obligor;

(h) obtain any contingent interest, additional interest or so-called "kicker" measured on the basis of the cash flow or appreciation of the underlying Mortgaged Property (or other similar equity participation);

(i) amend, modify or waive any default provision, including, the definition of "Default", "Event of Default" or similar defined term in the Purchased Asset Documents;

(j) amend, modify or waive any notice or cure periods provided in the Purchased Asset Documents, provided, however, with respect to each Purchased Asset, such Seller (or Interim Servicer on its behalf) may waive (but not amend or modify) on a one-time basis during the related loan term (including any extensions thereof) for each Purchased Asset a nonmonetary notice and cure period provided that any applicable notice or cure period shall not be extended more than thirty (30) calendar days;

(k) materially amend, modify or waive any insurance requirements under the Purchased Asset Documents (including, without limitation, any deductibles, limits or qualifications of insurers) or any material casualty or condemnation provisions;

(l) change the flag on an existing hotel;

(m) unless the related manager is in default, remove the current manager of an existing hotel (provided that Buyer's consent to any replacement manager is required);

(n) forgive any debt of any Underlying Obligor;

(o) release or substitute any collateral except as provided in the Purchased Asset Documents;

(p) consent to the placement of any Lien, encumbrance or easement on the underlying Mortgaged Property or any Lien or encumbrance on the Equity Interests in any Underlying Obligor (in each case, to the extent not expressly permitted by the Purchased Asset Documents);

(q) amend, modify or waive provisions in the Purchased Asset Documents restricting the Underlying Obligor, any guarantor or any equity owners of any of the foregoing from incurring additional Indebtedness (in each case, to the extent not expressly permitted by the Purchased Asset Documents); or

(r) permit any loan assumption or release or substitute any Underlying Obligor, guarantor or indemnitor of the Purchased Asset Documents, except as provided in the Purchased Asset Documents; provided, however, nothing in the foregoing shall imply a right of consent by Buyer, prior to the existence of a Material Facility Default or Event of Default, with

respect to waivers of any non-material, non-monetary default under any Purchased Asset Documents.

"Materials of Environmental Concern": Any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any Environmental Law.

"Maximum Amount": As of the Closing Date, $450,000,000 and thereafter, if Seller elects to exercise an Upsize Option, upon Buyer's agreement to grant the Upsize Option in accordance with all terms and conditions of Section 3.06(c), an amount up to $500,000,000, which Maximum Amount shall not be increased by any Future Funding Transaction or reduced upon the repurchase of any Purchased Assets prior to the earlier to occur of (x) the expiration of the Funding Period, or (y) the Facility Termination Date; provided, that on and after such date, the Maximum Amount on any date shall be the aggregate Purchase Price outstanding for all Transactions as of such date, as such amount declines over the term hereof as Purchased Assets are repurchased and Margin Deficits are satisfied, all in accordance with the applicable terms of this Agreement.

"Maximum Applicable Percentage": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Mezzanine Borrower" The obligor on a Mezzanine Note, including any Person who has assumed or guaranteed the obligations of the obligor thereunder.

"Mezzanine Loan": A performing mezzanine loan secured by pledges of the Equity Interests of an Underlying Obligor or that portion of the Equity Interest that includes the general partnership, managing member or other controlling interest (including the right to take title to and sell the related underlying Mortgaged Property) that owns income producing commercial real estate which is a Type of Mortgaged Property and for which the combined DSCR is not less than that set forth in the related Confirmation, taking into account any senior or *pari passu* Indebtedness secured directly or indirectly by the related underlying Mortgaged Property, including any preferred equity interest or mezzanine debt that is senior to or *pari passu* with the related Asset.

"Mezzanine Loan Documents": With respect to any Purchased Asset that is a Mezzanine Loan, the Mezzanine Note, those documents executed in connection with, evidencing or governing such Mezzanine Loan and the Mortgage Loan Documents for the related Whole Loan including, without limitation, those documents which are required to be delivered to Custodian under the Custodial Agreement (which documents so required to be delivered to Custodian shall only be required to include, for the avoidance of doubt, copies of the Mortgage Loan Documents for the related Whole Loan).

"Mezzanine Note": The original executed promissory note or other tangible evidence of Mezzanine Loan indebtedness.

"Mezzanine Related Mortgage Asset": An Eligible Asset or a Purchased Asset for which one or more related Mezzanine Loans exist and with respect to which the principal balance of such Mezzanine Loan(s) remains outstanding.

"Minimum Portfolio Debt Yield Test": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Moody's": Moody's Investors Service, Inc. or, if Moody's Investors Service, Inc. is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

"Mortgage": Any mortgage, deed of trust, assignment of rents, security agreement and fixture filing, or other instruments creating and evidencing a lien on real property and other property or ground leasehold interest and rights incidental thereto.

"Mortgage Asset File": Defined in the Custodial Agreement, which definition is incorporated herein by reference.

"Mortgage Loan Documents": With respect to any Whole Loan, those documents executed in connection with and/or evidencing or governing such Whole Loan, including, without limitation those that are required to be delivered to Custodian under the Custodial Agreement.

"Mortgage Note": The original executed promissory note or other evidence of the indebtedness of a Mortgagor with respect to a commercial mortgage loan.

"Mortgaged Property" and "Underlying Mortgaged Property": (I) In the case of a Whole Loan or a Senior Interest, the real property (including all improvements, buildings, fixtures, building equipment and personal property thereon and all additions, alterations and replacements made at any time with respect to the foregoing) and all other collateral directly or indirectly securing repayment of the debt evidenced by (a) a Mortgage Note (in the case of a Whole Loan) or (b) the Mortgage Note of the Whole Loan to which such Senior Interest relates (in the case of a Senior Interest), in each case securing such Whole Loan and (II) in the case of a Mezzanine Loan, the real property (including all improvements, buildings, fixtures, building equipment and personal property thereon and all additions, alterations and replacements made at any time with respect to the foregoing) and all other collateral owned by the Person whose Equity Interest is pledged as collateral security for such Mezzanine Loan.

"Mortgagee": The record holder of a Mortgage Note secured by a Mortgage.

"Mortgagor": The obligor on a Mortgage Note, including any Person who has assumed or guaranteed the obligations of the obligor thereunder.

"Multi-Family Asset": Any Purchased Asset for which the majority or all of the underlying Mortgaged Property consists of multiple separate housing units for residential (i.e. non-commercial) inhabitants, which may be contained either in one building or in several buildings within a single complex.

"Net Income": With respect to any Person for any period, the net income of such Person for such period as determined in accordance with GAAP.

"Non–Recourse Indebtedness": With respect to any Person and any date, indebtedness of such Person as of such date for borrowed money in respect of which recourse for payment (except for customary exceptions for fraud, misapplication of funds, environmental indemnities, Insolvency Events, non-approved transfers or other events) is contractually limited to specific assets of such Person encumbered by a Lien securing such Indebtedness.

"Off–Balance Sheet Obligations": With respect to any Person and any date, to the extent not included as a liability on the balance sheet of such Person, all of the following with respect to such Person as of such date: (a) monetary obligations under any financing lease or so– called "synthetic," tax retention or off–balance sheet lease transaction that, upon the application

of any Insolvency Laws, would be characterized as indebtedness, (b) monetary obligations under any sale and leaseback transaction that does not create a liability on the balance sheet of such Person, or (c) any other monetary obligation arising with respect to any other transaction that (i) is characterized as indebtedness for tax purposes but not for accounting purposes, or (ii) is the functional equivalent of or takes the place of borrowing but that does not constitute a liability on the balance sheet of such Person (for purposes of this clause (c), any transaction structured to provide Tax deductibility as Interest Expense of any dividend, coupon or other periodic payment will be deemed to be the functional equivalent of a borrowing).

"Other Connection Taxes": With respect to Buyer, Taxes imposed as a result of a present or former connection between Buyer and the jurisdiction imposing such Taxes (other than a connection arising from Buyer 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 Repurchase Document, or sold or assigned an interest in any Transaction or Repurchase Document).

"Other Taxes": Any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under any Repurchase Document or from the execution, delivery, performance, or enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Repurchase Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Partially Repaid Purchased Asset": Defined in Section 3.07.

"Partial Payment Amount": Defined in Section 3.07.

"Participant": Defined in Section 18.08(a).

"Participant Register": Defined in Section 18.08(f).

"Party": The meaning set forth in the preamble to this Agreement.

"PATRIOT Act": The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56, signed into law October 2, 2001, as amended, modified or replaced from time to time, and the rules and regulations promulgated thereunder.

"Paying Seller": Defined in Section 18.22(b).

"Permitted Liens": Any of the following as to which no enforcement, collection, execution, levy or foreclosure proceeding has been commenced: (a) Liens for state, municipal, local or other local taxes not yet due and payable, (b) Liens imposed by Requirements of Law, such as materialmen's, mechanics', carriers', workmen's, repairmen's and similar Liens, arising in the ordinary course of business securing obligations that are not overdue for more than thirty (30) days or that are being contested in good faith and for which an adequate cash bond has been maintained, (c) Liens granted pursuant to or by the Repurchase Documents and (d) Liens against any Seller in an aggregate amount not to exceed $500,000.

"Person": An individual, corporation, limited liability company, business trust, partnership, trust, unincorporated organization, joint stock company, sole proprietorship, joint venture, Governmental Authority or any other form of entity.

"Pledge and Security Agreement": The Pledge and Security Agreement, dated as of October 14, 2015, between Buyer and Pledgor, as amended, modified, waived, supplemented, extended, restated or replaced from time to time.

"Pledged Collateral": Defined in the Pledge and Security Agreement, which definition is incorporated herein by reference.

"Pledgor": ACRC Warehouse Holdings LLC, a Delaware limited liability company, together with its successors and permitted assigns.

"PPV Ratio": For each Purchased Asset, the ratio of the Purchase Price to the market value (as determined by Buyer) of the underlying Mortgaged Property securing the related Purchased Asset, as determined by Buyer. In determining the PPV Ratio at (i) the time of an initial asset approval and funding and (ii) in connection with the determination at any time after the Purchase Date therefor, of whether Buyer will adjust the Recourse Percentage of such Purchased Asset pursuant to Section 3.01(i), Buyer will use the "as is" value from an Appraisal or a broker opinion of value if such broker opinion of value is acceptable to Buyer, in each case, as provided by Sellers at the sole cost of Sellers. All other determinations of the PPV Ratio hereunder shall be based upon Buyer's determination in its commercially reasonable discretion of the market value of the underlying Mortgaged Property; provided, however, that Buyer shall calculate the PPV Ratio with respect to Sellers in a manner consistent with other similar calculations with respect to counterparties that are also lenders and/or obligors under commercial real estate loans for which Buyer or its Affiliates is providing capital under agreements that are similar to this Agreement.

"PPV Test": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Price Differential": For any Pricing Period or portion thereof and (a) for any Transaction outstanding, the sum of the products, for each day during such Pricing Period or portion thereof, of (i) 1/360th of the Pricing Rate in effect for each Purchased Asset subject to such Transaction during such Pricing Period, times (ii) the outstanding Purchase Price for such Purchased Asset on each such day, or (b) for all Transactions outstanding, the sum of the amounts calculated in accordance with the preceding clause (a) for all Transactions.

"Pricing Margin": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Pricing Period": For any Purchased Asset, (a) in the case of the first Remittance Date for such Purchased Asset, the period from the Purchase Date for such Purchased Asset to but excluding such Remittance Date, and (b) in the case of any subsequent Remittance Date for each related Purchased Asset, the one-month period commencing on the fifteenth (15th) calendar day of the month preceding the month of the applicable Remittance Date to and including the fourteenth (14th) calendar day of the following month; provided, that no Pricing Period for a Purchased Asset shall end after the Repurchase Date for such Purchased Asset to the extent such Purchased Asset is actually repurchased on such Repurchase Date.

"Pricing Rate": For any Pricing Period and any Transaction, the applicable Benchmark for such Transaction for such Pricing Period plus the applicable Pricing Margin for such date; provided, that while an Event of Default is continuing, the Pricing Rate shall be the Default Rate.

"Pricing Rate Determination Date": (A) With respect to any LIBOR Based Transaction, subject to Section 12.01(a), the LIBOR Based Pricing Rate Determination Date and

(B) with respect to any SOFR Based Transaction, the SOFR Based Pricing Rate Determination Date.

"Prime Rate": An annual rate equal to the prime rate as published in the "Money Rates" section of *The Wall Street Journal*, as that prime rate may change from time to time.

"Principal Payments": For any Purchased Asset, all payments and prepayments of principal received for such Purchased Asset, including insurance and condemnation proceeds and recoveries of principal from liquidation or foreclosure, in each case, which are permitted by the terms of the Purchased Asset Documents to be applied to principal and are applied as principal towards the Purchase Price.

"Purchase Agreement": Any purchase agreement between a Seller and any Transferor pursuant to which such Seller purchased or acquired an Asset which is subsequently sold to Buyer hereunder, which Purchase Agreement shall contain a grant of a security interest in favor of such Seller and authorize the filing of UCC financing statements against the Transferor with respect to such Asset.

"Purchase Date": For any Purchased Asset, the date on which such Purchased Asset is transferred by the related Seller to Buyer.

"Purchase Price": For any Purchased Asset, (a) as of the Purchase Date and, as initially set forth in the related Confirmation for such Purchased Asset, as such Confirmation may be updated by Buyer and the related Seller from time to time, an amount equal to the product of the Market Value of such Purchased Asset, times the Applicable Percentage for such Purchased Asset, and (b) as of any other date, the amount described in the preceding clause (a), (i) increased by any Future Funding Amounts disbursed by Buyer to the applicable Seller or the related borrower with respect to such Purchased Asset and, (ii) reduced by (x) any amount of Margin Deficit transferred by such Seller to Buyer pursuant to Section 4.01 and applied to the Purchase Price of such Purchased Asset, (y) any Principal Payments remitted to the Waterfall Account and which were applied to the Purchase Price of such Purchased Asset by Buyer pursuant to clause *fifth* of Section 5.02, and (z) any payments made by such Seller in reduction of the outstanding Purchase Price.

"Purchased Asset Documents": Individually or collectively, as the context may require, the related Mortgage Loan Documents, Mezzanine Loan Documents and/or the related Senior Interest Documents.

"Purchased Assets": (a) For any Transaction, each Asset sold by the related Seller to Buyer in such Transaction, and (b) for the Transactions in general, all Assets sold by the applicable Seller to Buyer, in each case including, to the extent relating to such Asset or Assets, all of such Seller's right, title and interest in and to (i) Purchased Asset Documents, (ii) Servicing Rights, (iii) Servicing Files, (iv) mortgage guaranties and insurance (issued by Governmental Authorities or otherwise) and claims, payments and proceeds thereunder, (v) insurance policies, certificates of insurance and claims, payments and proceeds thereunder, (vi) the principal balance of such Assets, not just the amount advanced, (vii) amounts and property from time to time on deposit or credited to the Waterfall Account and the Waterfall Account itself, (viii) collection, escrow, reserve, collateral or lock–box accounts and all amounts and property from time to time on deposit therein, to the extent of the related Seller's or the holder's interest therein, (ix) Income paid or payable in connection with such Asset during the time such Asset is subject to a Transaction, until such Asset is repurchased by such Seller hereunder, (x) amounts and property from time to time on deposit in the Collection Accounts, together with the Collection Accounts themselves, (xi) security interests of such Seller in Derivatives Contracts entered into by Underlying Obligors, (xii) rights of such Seller under any letter of credit, guarantee, warranty,

indemnity or other credit support or enhancement, (xiii) Interest Rate Protection Agreements relating to such Assets, (xiv) all supporting obligations of any kind, and (xv) all proceeds related to the sale, securitization or other disposition thereof; provided, that (A) Purchased Assets shall not include any obligations of any Seller or any Retained Interests, and (B) for purposes of the grant of security interest by any Seller to Buyer set forth in Section 11.01, together with the other provisions of Article 11, Purchased Assets shall include all of the following: general intangibles, accounts, chattel paper, deposit accounts, securities accounts, instruments, securities, financial assets, uncertificated securities, security entitlements and investment property (as such terms are defined in the UCC) and replacements, substitutions, conversions, distributions or proceeds relating to or constituting any of the items described in the preceding clauses (i) through (xv).

"Rate Conversion": Defined in Section 12.01(a).

"Rate Conversion Effective Date": Defined in Section 12.01(a).

"Rating Agency": Each of Fitch, Moody's and S&P.

"Recourse Percentage": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Reference Time": With respect to any setting of the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), (a) if such Benchmark is the SOFR Average or Term SOFR, with respect to any setting thereof, then two (2) U.S. Government Securities Business Days prior to such date and (b) if such Benchmark is not the SOFR Average or Term SOFR, then the time determined by Buyer in accordance with the Benchmark Replacement Conforming Changes.

"Register": Defined in Section 18.08(e).

"REIT": A Person qualifying as a real estate investment trust, as defined in Section 856(a) of the Code.

"Release": Any generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of any property or Mortgaged Property, except Materials of Environmental Concern used and managed in ordinary commercial activities in compliance with applicable laws and best practices, such as copier ink and dry cleaning chemicals, where such usage and management does not result in harm to the environment or human health and does not result in liability for investigation or other remediation pursuant to applicable law.

"Relevant Governmental Body": The Board of Governors of the Federal Reserve System and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System and/or the Federal Reserve Bank of New York, or any successor thereto.

"Remedial Work": Any investigation, inspection, site monitoring, containment, clean–up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of any property or Mortgaged Property of any Materials of Environmental Concern, including any action to comply with any applicable Environmental Laws or directives of any Governmental Authority with regard to any Environmental Laws.

"Remittance Date": The 18th day of each month (or if such day is not a Business Day, the next following Business Day, or if such following Business Day would fall in the following month, the next preceding Business Day), or such other day as is mutually agreed to by each Seller and Buyer.

"Representation Breach": Any representation, warranty, certification, statement or affirmation made or deemed made by any Seller, Pledgor or Guarantor in any Repurchase Document (including in Schedule 1) or in any certificate, notice, report or other document delivered pursuant to any Repurchase Document proves to be incorrect, false or misleading in any material respect when made or deemed made, without regard to any Knowledge or lack of Knowledge thereof by such Person; provided that no representation or warranty (or portion thereof) with respect to a Purchased Asset which constitutes an Approved Representation Exception shall constitute a Representation Breach.

"Representation Exceptions": With respect to each Purchased Asset, a written list prepared by the related Seller and delivered to Buyer prior to the Purchase Date of such Purchased Asset specifying, in reasonable detail, the representations and warranties (or portions thereof) set forth in this Agreement (including in Schedule 1) that are not satisfied with respect to an Asset or Purchased Asset.

"Repurchase Date": For any Purchased Asset, the earliest to occur of (a) the Facility Termination Date, without giving effect to any unexercised extensions thereof, (b) any Early Repurchase Date therefor, (c) the Business Day on which the related Seller is to repurchase such Purchased Asset as specified by such Seller and agreed to by Buyer in the related Confirmation, and (d) the date that is two (2) Business Days prior to the maturity date (under the related Purchased Asset Documents with respect to such Purchased Asset including, with respect to each Senior Interest that is a participation, the related Whole Loan) for such Purchased Asset after giving effect to any extension of such maturity date, whether by modification, waiver, forbearance or otherwise which does not require consent of the lender(s) with respect to such Purchased Asset Documents or, if consent of the lender(s) is required with respect to such Purchased Asset Documents, such extension is permitted hereunder or is otherwise approved by Buyer in writing in its sole discretion; provided that, solely with respect to this clause (d), the settlement date with respect to such Repurchase Date and Purchased Asset may occur two (2) Business Days thereafter as provided in Section 3.05).

"Repurchase Documents": Collectively, this Agreement, the Custodial Agreement, the Fee Letter, the Account Control Agreement, all Interest Rate Protection Agreements, the Pledge and Security Agreement, the Guarantee Agreement, the Servicing Agreement and any related sub-servicing agreements, all Confirmations, all UCC financing statements, amendments and continuation statements filed pursuant to any other Repurchase Document, and all additional documents, certificates, agreements or instruments, the execution of which is required, necessary or incidental to or desirable for performing or carrying out any other Repurchase Document.

"Repurchase Obligations": All obligations of each Seller to pay the Repurchase Price on the Repurchase Date and all other obligations and liabilities of each Seller to Buyer arising under or in connection with the Repurchase Documents (for the avoidance of doubt, including all Interest Rate Protection Agreements with Affiliated Hedge Counterparties), whether now existing or hereafter arising, and, without duplication, all interest and fees that accrue after the commencement by or against any Seller or Guarantor of any Insolvency Proceeding naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding (in each case, whether due or accrued).

“Repurchase Price”: For any Purchased Asset as of any date, an amount equal to the sum of (a) the outstanding Purchase Price as of such date (as increased by any Future Funding Amounts and any other additional funds advanced in connection with such Purchased Asset), (b) the accrued and unpaid Price Differential for such Purchased Asset as of such date, (c) all other amounts that are due and payable as of such date by any Seller to Buyer under this Agreement or any Repurchase Document, (d) any accrued and unpaid fees and expenses and accrued and unpaid indemnity amounts, late fees, default interest, breakage costs and any other amounts owed by any Seller or Guarantor to Buyer or any of its Affiliates under this Agreement or any Repurchase Document and (e) the Exit Fee, if any, applicable to such Purchased Asset on any Early Repurchase Date.

“Requirements of Law”: With respect to any Person or property or assets of such Person and as of any date, all of the following applicable thereto as of such date: all Governing Documents and existing and future laws, statutes, rules, regulations, treaties, codes, ordinances, permits, certificates, orders and licenses of and interpretations by any Governmental Authority (including, without limitation, Environmental Laws, ERISA, Anti-Money Laundering Laws, Anti-Corruption Laws, Sanctions, regulations of the Board of Governors of the Federal Reserve System, and laws, rules and regulations relating to usury, licensing, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy), judgments, decrees, injunctions, writs, awards or orders of any court, arbitrator or other Governmental Authority.

“Responsible Officer”: With respect to any Person, the chief executive officer, the chief financial officer, the chief accounting officer, the treasurer or the chief operating officer of such Person or such other officer designated as an authorized signatory pursuant to such Person’s Governing Documents.

“Retained Interest”: (a) With respect to any Purchased Asset, (i) all duties, obligations and liabilities of the related Seller thereunder, including payment and indemnity obligations, (ii) all obligations of agents, trustees, servicers, administrators or other Persons under the documentation evidencing such Purchased Asset, and (iii) if any portion of the Indebtedness related to such Purchased Asset is owned by another lender or is being retained by a Seller, the interests, rights and obligations under such documentation to the extent they relate to such portion, and (b) with respect to any Purchased Asset with an unfunded commitment on the part of a Seller, all obligations to provide additional funding, contributions, payments or credits, except to the extent otherwise specified in the related Confirmation.

“S&P”: Standard and Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. or, if Standard & Poor’s Ratings Services is no longer issuing ratings, another nationally recognized rating agency reasonably acceptable to Buyer.

“Sanction” or “Sanctions”: Individually and collectively, any and all economic or financial sanctions, trade embargoes and anti-terrorism laws imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC), the U.S. State Department, the U.S. Department of Commerce, or through any existing or future Executive Order; (b) the United Nations Security Council; (c) the European Union; (d) the United Kingdom; or (e) any other Governmental Authorities with jurisdiction over Seller, Guarantor or any of their Affiliates.

“Sanctioned Target”: Any individual, entity, group, sector, territory or country that is a target of any Sanctions, including any legal entity that is deemed to be an individual, entity, group, sector, territory or country that is a target of any Sanctions, based upon the direct or indirect ownership or control of such entity by any other Sanctioned Target(s).

"Second Extended Facility Termination Date": December 14, 2024.

"Second Extension Period": The period commencing on the day immediately following the First Extended Facility Termination Date and ending on the Second Extended Facility Termination Date.

"Seller" or "Sellers": Individually and collectively, as the context may require, ACRC Lender W LLC, a Delaware limited liability company, and ACRC Lender W TRS LLC, a Delaware limited liability company.

"Senior Interest": (a) A senior or *pari passu* participation interest in a Whole Loan (i) that is evidenced by a Senior Interest Note, (ii) that represents an undivided participation interest in part of the underlying Whole Loan and its proceeds, (iii) that represents a pass through of a portion of the payments made on the underlying Whole Loan which lasts for the same length of time as such Whole Loan, (iv) as to which there is no guaranty of payments to the holder of the Senior Interest Note or other form of credit support for such payments, and (v) either (x) represents the controlling interest in such Whole Loan and vests the holder thereof with control or consent rights with respect to all material decisions regarding such Whole Loan or (y) is an Eligible NCPPP, or (b) an "A" note in an "A/B", "A-1/A-2" or similar structure in a Whole Loan, in each case for which (I) the Mortgaged Property has fully stabilized, as determined by Buyer, and (II) the Sellers have provided evidence acceptable to Buyer that the Sellers have delivered written notice to the other participation holders or noteholders, as applicable, under the related participation agreement or co-lender agreement that such participation interest or "A" note has been sold in a Transaction.

"Senior Interest Documents": For any Senior Interest, the Senior Interest Note, together with any co-lender agreements, participation agreements and/or other intercreditor agreements or other documents governing or otherwise relating to such Senior Interest, and the Mortgage Loan Documents for the related Whole Loan, and including, without limitation, those documents which are required to be delivered to Custodian under the Custodial Agreement (which documents so required to be delivered to Custodian shall only be required to include, for the avoidance of doubt, copies of the Mortgage Loan Documents for the related Whole Loan).

"Senior Interest Note": (a) The original executed promissory note, participation or other certificate or other tangible evidence of a Senior Interest, (b) the related original Mortgage Note (or, if the applicable Seller cannot obtain the original, then a certified copy thereof), and (c) the related original participation and/or intercreditor agreement, as applicable (or, if the applicable Seller cannot obtain the original, then a certified copy thereof with a lost note affidavit signed by a senior officer of such Seller in such form as is acceptable to Buyer in its discretion).

"Servicing Agreement": An agreement entered into by Buyer (if applicable), Sellers and Interim Servicer for the servicing of the Purchased Assets, acceptable to Buyer.

"Servicing File": With respect to any Purchased Asset, the file retained and maintained by the applicable Seller or Interim Servicer, including the originals or copies of all the applicable Purchased Asset Documents and other documents and agreements (i) relating to such Purchased Asset and/or the related Whole Loan, (ii) relating to the origination and/or servicing and administration of such Purchased Asset and/or the related Whole Loan, or (iii) that are otherwise reasonably necessary for the ongoing administration and/or servicing of such Purchased Asset and/or the related Whole Loan or for evidencing or enforcing any of the rights of the holder of such Purchased Asset or holders of interests therein, including, to the extent applicable, all servicing agreements, files, documents, records, databases, computer tapes, insurance policies and certificates, appraisals, other closing documentation, payment history and

other records relating to or evidencing the servicing of such Purchased Asset, which file shall be held by such Seller and/or the Interim Servicer for and on behalf of Buyer.

"Servicing Rights": With respect to any Purchased Asset, all right, title and interest of each Seller, Pledgor, Guarantor or any Affiliate of Seller, Pledgor or Guarantor, or any other Person, in and to any and all of the following: (a) rights to service and/or sub-service, and collect and make all decisions with respect to, the Purchased Assets and/or any related Whole Loans, (b) amounts received by each Seller, Pledgor, Guarantor or any Affiliate of any Seller, Pledgor or Guarantor, or any other Person, for servicing and/or sub-servicing the Purchased Assets and/or any related Whole Loans, (c) late fees, penalties or similar payments as compensation with respect to the Purchased Assets and/or any related Whole Loans, (d) agreements and documents creating or evidencing any such rights to service and/or sub-service (including, without limitation, all Servicing Agreements), together with all documents, files and records relating to the servicing and/or sub-servicing of the Purchased Assets and/or any related Whole Loans, and rights of any Seller, Pledgor, Guarantor or any Affiliate of any Seller, Pledgor or Guarantor, or any other Person thereunder, (e) escrow, reserve and similar amounts with respect to the Purchased Assets and/or any related Whole Loans, (f) rights to appoint, designate and retain any other servicers, sub-servicers, special servicers, agents, custodians, trustees and liquidators with respect to the Purchased Assets and/or any related Whole Loans, and (g) accounts and other rights to payment related to the Purchased Assets and/or any related Whole Loans.

"SOFR": A rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator": The Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website": The website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Adjustment": 0.11448% per annum.

"SOFR Average": For any Pricing Period, the rate per annum determined by Buyer as the compounded average of SOFR over a rolling calendar day period of thirty (30) days ("30-Day SOFR Average"), for the SOFR Based Pricing Rate Determination Date as such rate is published by the SOFR Administrator on the SOFR Administrator's Website; provided, however, that (i) if as of 5:00 p.m. (New York City time) on any SOFR Based Pricing Rate Determination Date, such 30-Day SOFR Average has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to SOFR Average has not occurred, then SOFR Average will be the 30-Day SOFR Average as published on the SOFR Administrator's Website for the first preceding U.S. Government Securities Business Day for which such 30-Day SOFR Average was published on the SOFR Administrator's Website so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such SOFR Based Pricing Rate Determination Date and (ii) if the calculation of SOFR Average as determined as provided above (including pursuant to clause (i) of this proviso) results in a SOFR Average rate of less than the Floor, SOFR Average shall be deemed to be the Floor for all purposes of this Agreement and the other Repurchase Documents. Each calculation by Buyer of SOFR Average shall be conclusive and binding for all purposes, absent manifest error.

"SOFR Based Pricing Rate Determination Date": (a) In the case of the first Pricing Period for any Purchased Asset, two (2) U.S. Government Securities Business Days prior

to the related Purchase Date for such Purchased Asset, and (b) in the case of each subsequent Pricing Period, two (2) U.S. Government Securities Business Days prior to the Remittance Date on which such Pricing Period begins or on any other date as determined by Buyer and communicated to Sellers. The failure to communicate shall not impair Buyer's decision to reset the Pricing Rate on any date.

"SOFR Based Transaction": Any Transaction that is not a LIBOR Based Transaction.

"Solvent": With respect to any Person at any time, having a state of affairs such that all of the following conditions are met at such time: (a) the fair value of the assets and property of such Person is greater than the amount of such Person's liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated for purposes of Section 101(32) of the Bankruptcy Code, (b) the present fair salable value of the assets and property of such Person in an orderly liquidation of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person is able to realize upon its assets and property and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (e) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's assets and property would constitute unreasonably small capital.

"Specified Affiliate": ACRC Holdings LLC, ACRC Lender LLC and Pledgor; provided, however, that if any Seller or its Affiliates dissolve or liquidate ACRC Holdings LLC at any time, then ACRC Holdings LLC shall thereupon cease to be a Specified Affiliate.

"SPV Conversion Date": With respect to each Seller, the date upon which the Governing Documents with respect to such Seller were amended, restated, amended and restated, supplemented or otherwise modified to, among other things, implement the Independent Manager Provisions.

"Structuring Fee": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Sub-Limit": The composition of Purchased Assets subject to this Agreement at all times meet the following sub-limits, and no Market Value shall be ascribed to any Purchased Asset to the extent that it violates any of the following sub-limits as of each related date of the determination thereof:

(a) to the extent that the Market Value ascribed to Eligible NCPPPs would exceed twenty percent (20%) of the Maximum Amount;

(b) to the extent that the Market Value ascribed to any one Purchased Asset would exceed twenty-five percent (25%) of the Maximum Amount; and

(c) to the extent that the Market Value ascribed to Purchased Assets that are secured by underlying Mortgaged Properties consisting primarily of hotel properties (as determined by Buyer), would exceed fifteen percent (15%) of the Maximum Amount.

"Subsidiary": With respect to any Person, any corporation, partnership, limited liability company or other entity (heretofore, now or hereafter established) of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary

voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership, limited liability company or other entity (without regard to the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, and shall include all Persons the accounts of which are consolidated with those of such Person pursuant to GAAP.

"Taxes": 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 SOFR": For any calculation with respect to a SOFR Based Transaction, the Term SOFR Reference Rate for a tenor comparable to the related Pricing Period on the day (such day, for purposes of this definition, the "Periodic Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to the first day of such Pricing Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; provided, further, that if Term SOFR determined as provided above shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"Term SOFR Administrator": CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by Buyer in its reasonable discretion).

"Term SOFR Reference Rate": The forward-looking term rate based on SOFR.

"Test Period": The meaning specified in the Guarantee Agreement.

"Third Extended Facility Termination Date": December 14, 2025.

"Third Extension Period": The period commencing on the day immediately following the Second Extended Facility Termination Date and ending on the Third Extended Facility Termination Date.

"Transaction": With respect to any Asset, the sale and transfer of such Asset from the related Seller to Buyer pursuant to the Repurchase Documents against the transfer of funds from Buyer to such Seller representing the Purchase Price or any additional Purchase Price for such Asset.

"Transaction Request": Defined in Section 3.01(a).

"Transferor": The applicable seller of an Asset under a Purchase Agreement.

"Type": With respect to a Mortgaged Property underlying any Purchased Asset, such Mortgaged Property's classification as one of the following: multifamily, retail, office, industrial, student housing, self-storage and hotels.

"UCC": The Uniform Commercial Code as in effect in the State of New York; provided, that, if, by reason of a Requirement of Law, the perfection, effect on perfection or non perfection or priority of the security interest in any Purchased Asset is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, then "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority.

"Unadjusted Benchmark Replacement": The applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Underlying Obligor": Individually and collectively, as the context may require, (a) in the case of a Purchased Asset that is a Whole Loan, the Mortgagor and each obligor and guarantor under such Purchased Asset, including (i) any Person who has not signed the related Mortgage Note but owns an interest in the related Mortgaged Property, which interest has been encumbered to secure such Purchased Asset, and (ii) any other Person who has assumed or guaranteed the obligations of such Mortgagor under the Purchased Asset Documents relating to such Purchased Asset, (b) in the case of a Purchased Asset that is a Senior Interest, the Mortgagor and each obligor and any other Person who has assumed or guaranteed the related Whole Loan, and (c) in the case of any Purchased Asset that is a Mezzanine Loan, (i) all underlying obligors with respect to the related Whole Loan and the owner of the related Mortgaged Property, (ii) the borrower under the related Mezzanine Loan, and (iii) any other Person who has assumed or guaranteed the obligation of such Mezzanine Loan borrower.

"Underwriting Package": With respect to one or more Assets, the internal document or credit committee memorandum (redacted to protect confidential information) setting forth all material information relating to an Asset which is known by the applicable Seller, prepared by such Seller for its evaluation of such Asset, to include at a minimum all the information required to be set forth in the relevant Confirmation or, in the alternative, materials of a like kind that would typically be provided by a loan originator to a nationally recognized statistical rating organization in connection with a collateral debt obligation or commercial mortgage-backed securities offering acceptable in Buyer's discretion. In addition, the Underwriting Package shall include all of the following, to the extent applicable and available:

(a) copies of all Purchased Asset Documents (provided that in the case of a Wet Mortgage Asset, the Underwriting Package delivered in connection with a Transaction Request under Section 3.01(a) shall provide .pdf copies of all such Purchased Asset Documents to the extent available at such time, including substantially final drafts of any documents that will constitute Purchased Asset Documents upon their execution, together with a pledge by the related Seller to forward final, signed Purchased Asset Documents within five (5) Business Days after the related Purchase Date); and

(b) all Purchased Asset Documents required to be delivered to Custodian under Section 2.01 of the Custodial Agreement, (b) an Appraisal, (c) the current occupancy report, tenant stack and rent roll, (d) if and to the extent available after the exercise of reasonable effort by the related Seller, at least two (2) years of property-level financial statements, (e) the current financial statement of the Underlying Obligor, (f) the mortgage asset file described in the Custodial Agreement, (g) third-party reports and agreed-upon procedures, letters and reports (whether drafts or final forms), site inspection reports, market studies and other due diligence materials prepared by or on behalf of or delivered to the applicable Seller, (h) if and to the extent available after the exercise of reasonable effort by such Seller, aging of accounts receivable and accounts payable, (i) copies of Purchased Asset Documents, (j) such further documents or information as Buyer may request, (k) any and all agreements, documents, reports, or other information concerning the Purchased Assets (including, without limitation, all of the related Purchased Asset Documents) received or obtained in connection with the origination of the

Purchased Assets, (l) any other material documents or reports concerning the Purchased Assets prepared or executed by the applicable Seller or Guarantor, and (m) all documents, instruments and agreement received in respect of the closing of the acquisition transaction under the Purchase Agreement.

"Upsize Fee": Defined in the Fee Letter, which definition is incorporated herein by reference.

"Upsize Option": Defined in Section 3.06(c).

"USD LIBOR": The London interbank offered rate for U.S. dollars with a tenor of one month.

"USD LIBOR Transition Date": Means the earlier of (a) the date that USD LIBOR has either (i) permanently or indefinitely ceased to be provided by the administrator of USD LIBOR; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide an USD LIBOR or (ii) been announced by the regulatory supervisor of the administrator of USD LIBOR pursuant to public statement or publication of information to be no longer representative, (b) the Early Opt-in Effective Date and (c) such other date as Buyer and Sellers may mutually agree.

"U.S. Governmental Securities Business Day": Any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association, or any successor thereto, recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person": Any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regime": Each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

"U.S. Tax Compliance Certificate": Defined in Section 12.06(e).

"Waterfall Account": A segregated non-interest bearing account established at Waterfall Account Bank, in the name of the Sellers, pledged to Buyer and subject to a Controlled Account Agreement.

"Waterfall Account Bank": Wells Fargo Bank, National Association, or any other bank approved by Buyer.

"Wet Mortgage Asset": An Eligible Asset for which (i) the scheduled origination date of the related Whole Loan is the proposed Purchase Date set forth in the Transaction Request and (ii) a complete Mortgage Asset File has not been delivered to Custodian prior to the related Purchase Date.

"Whole Loan": A performing commercial real estate whole loan made to the related Underlying Obligor and secured primarily by a perfected, first priority Lien in the related underlying Mortgaged Property, including, without limitation (A) with respect to any Senior Interest, the whole loan in which the applicable Seller owns a Senior Interest, and (B) with respect to any Mezzanine Loan, the whole loan made to the Mortgagor or Affiliate of such Mortgagor whose Equity Interests, directly or indirectly, secure such Mezzanine Loan.

Section 2.01 Rules of Interpretation. Headings are for convenience only and do not affect interpretation. The following rules of this Section 2.01 apply unless the context requires otherwise. The singular includes the plural and conversely. A gender includes all genders. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning. A reference to an Article, Section, Subsection, Paragraph, Subparagraph, Clause, Annex, Schedule, Appendix, Attachment, Rider or Exhibit is, unless otherwise specified, a reference to an Article, Section, Subsection, Paragraph, Subparagraph or Clause of, or Annex, Schedule, Appendix, Attachment, Rider or Exhibit to, this Agreement, all of which are hereby incorporated herein by this reference and made a part hereof. A reference to a party to this Agreement or another agreement or document includes the party's successors, substitutes or assigns in each case, permitted by the Repurchase Documents. A reference to an agreement or document is to the agreement or document as amended, restated, modified, novated, supplemented or replaced, except to the extent prohibited by any Repurchase Document. A reference to legislation or to a provision of legislation includes a modification, codification, replacement, amendment or reenactment of it, a legislative provision substituted for it and a rule, regulation or statutory instrument issued under it. A reference to writing includes a facsimile or electronic transmission and any means of reproducing words in a tangible and permanently visible form. A reference to conduct includes an omission, statement or undertaking, whether or not in writing. A Default or Event of Default exists until it has been cured or waived in writing by Buyer. The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement, unless the context clearly requires or the language provides otherwise. The word "including" is not limiting and means "including without limitation." The word "any" is not limiting and means "any and all" unless the context clearly requires or the language provides otherwise. 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." The words "will" and "shall" have the same meaning and effect. A reference to day or days without further qualification means calendar days. A reference to any time means New York time. This Agreement may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their respective terms. Unless the context otherwise clearly requires, all accounting terms not expressly defined herein shall be construed in accordance with GAAP, and all accounting determinations, financial computations and financial statements required hereunder shall be made in accordance with GAAP, without duplication of amounts, and on a consolidated basis with all Subsidiaries. All terms used in Articles 8 and 9 of the UCC, and used but not specifically defined herein, are used herein as defined in such Articles 8 and 9. A reference to "fiscal year" and "fiscal quarter" means the fiscal periods of the applicable Person referenced therein. A reference to an agreement includes a security interest, guarantee, agreement or legally enforceable arrangement whether or not in writing. A reference to a document includes an agreement (as so defined) in writing or a certificate, notice, instrument or document, or any information recorded in computer disk form. Whenever a Person is required to provide any document to Buyer under the Repurchase Documents, the relevant document shall be provided in writing or printed form unless Buyer requests otherwise. At the request of Buyer, the document shall be provided electronically or both printed and electronically. The Repurchase Documents are the result of negotiations between the Parties, have been reviewed by counsel to Buyer and counsel to each Seller, and are the product of both Parties. No rule of construction shall apply to disadvantage one Party on the ground that such Party proposed or was involved in the preparation of any particular provision of the Repurchase Documents or the Repurchase Documents themselves. Except where otherwise expressly stated, Buyer may give or withhold, or give conditionally, approvals and consents, and may form opinions and make determinations, in its sole and absolute discretion subject in all cases to the implied covenant of good faith and fair dealing. Reference herein or in any other Repurchase Document to Buyer's discretion, shall mean, unless otherwise expressly stated herein or therein, Buyer's sole and absolute discretion, and the exercise of such discretion shall be final

and conclusive. In addition, whenever Buyer has a decision or right of determination, opinion or request, exercises any right given to it to agree, disagree, accept, consent, grant waivers, take action or no action or to approve or disapprove (or any similar language or terms), or any arrangement or term is to be satisfactory or acceptable to or approved by Buyer (or any similar language or terms), the decision of Buyer with respect thereto, except where otherwise expressly stated, shall be in the sole and absolute discretion of Buyer, and such decision shall be final and conclusive subject in all cases to the implied covenant of good faith and fair dealing.

Section 2.02 Rates. Price Differential on Transactions denominated in Dollars or any other currency permitted hereunder (if any) may be determined by reference to a benchmark rate that is, or may in the future become, the subject of regulatory reform or cessation. Regulators have signaled the need to use alternative reference rates for some of these benchmark rates and, as a result, such benchmark rates may cease to comply with applicable laws and regulations, may be permanently discontinued or the basis on which they are calculated may change. Buyer does not warrant or accept any responsibility for, and shall not have any liability with respect to, (i) the continuation of, administration of, submission of, calculation of or any other matter related to the London interbank offered rate, the rates in any Benchmark, any component definition thereof or rates referenced in the definition thereof or with respect to any alternative, successor or replacement rate thereto (including any then-current Benchmark or any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 12.01, will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (ii) the effect, implementation or composition of any Benchmark Replacement Conforming Changes. Buyer and its Affiliates or other related entities may engage in transactions that affect the calculation of a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to Sellers. Buyer may select information sources or services in its reasonable discretion to ascertain any Benchmark, any component definition thereof or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to Sellers or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 3
THE TRANSACTIONS

Section 3.01 Procedures.

(a) From time to time during the Funding Period, a Seller may request Buyer to enter into a proposed Transaction by sending notice to Buyer (a "Transaction Request") (i) describing the Transaction and each proposed Asset and any related underlying Mortgaged Property and other security therefor in reasonable detail, (ii) transmitting a complete Underwriting Package for each proposed Asset, and (iii) specifying which (if any) of the representations and warranties of such Seller set forth in this Agreement (including in Schedule 1 applicable to the Class of such Asset) such Seller will be unable to make with respect to such Asset. Such Seller shall promptly deliver to Buyer any supplemental materials requested at any time by Buyer. Buyer shall conduct such review of the Underwriting Package and each such Asset as Buyer determines appropriate. Buyer shall determine whether or not it is willing to purchase any or all of the proposed Assets, and if so, on what terms and conditions. It is expressly agreed and acknowledged that Buyer is entering into the Transactions on the basis of all such representations and warranties and on the completeness and accuracy of the information

contained in the applicable Underwriting Package, and any incompleteness or inaccuracies in the related Underwriting Package will only be acceptable to Buyer if disclosed in writing to Buyer by such Seller in advance of the related Purchase Date, and then only if Buyer opts to purchase the related Purchased Asset from such Seller notwithstanding such incompleteness and inaccuracies. In the event of a Representation Breach, the applicable Seller shall within three (3) Business Days after notice repurchase the related Asset or Assets in accordance with Section 3.05.

(b) Buyer shall give the related Seller notice of the date when Buyer has received a complete Underwriting Package and supplemental materials. Buyer shall approve or disapprove in writing any proposed Asset, within ten (10) Business Days after such date. If Buyer has not communicated such decision to such Seller by such date, Buyer shall automatically and without further action be deemed to have determined not to purchase any such Asset.

(c) If Buyer communicates to the related Seller a final non-binding determination that it is willing to purchase any or all of such Assets, such Seller shall deliver to Buyer an executed preliminary Confirmation for such Transaction, describing each such Asset and its proposed Purchase Date, Market Value, Applicable Percentage, Purchase Price and such other terms and conditions as Buyer may require. If Buyer requires changes to the preliminary Confirmation, the related Seller shall make such changes and re-execute the preliminary Confirmation. If Buyer determines to enter into the Transaction on the terms described in the preliminary Confirmation, Buyer shall execute and return the same to such Seller at the time that Buyer pays the related Purchase Price to applicable Seller, which shall thereupon become effective as the Confirmation of the Transaction. Buyer's approval of the purchase of an Asset on such terms and conditions as Buyer may require shall be evidenced only by its execution and delivery of the related Confirmation. For the avoidance of doubt, Buyer shall not (i) be bound by any preliminary or final non-binding determination referred to above, or (ii) be obligated to purchase an Asset notwithstanding a Confirmation executed by the Parties unless and until all applicable conditions precedent in Article 6 have been satisfied or waived by Buyer.

(d) Each Confirmation, together with this Agreement, shall be conclusive evidence of the terms of the Transaction covered thereby, and shall be construed to be cumulative to the extent possible. If terms in a Confirmation are inconsistent with terms in this Agreement with respect to a particular Transaction, the Confirmation shall prevail. Whenever the Applicable Percentage or any other term of a Transaction (other than the Pricing Rate, Market Value and outstanding Purchase Price) with respect to an Asset is revised or adjusted in accordance with this Agreement, an amended and restated Confirmation reflecting such revision or adjustment and that is otherwise acceptable to the Parties shall be prepared by the related Seller and executed by the Parties.

(e) The fact that Buyer has conducted or has failed to conduct any partial or complete examination or any other due diligence review of any Asset or Purchased Asset shall in no way affect any rights Buyer may have under the Repurchase Documents or otherwise with respect to any representations or warranties or other rights or remedies thereunder or otherwise, including the right to determine at any time that such Asset or Purchased Asset is not an Eligible Asset.

(f) No Transaction shall be entered into if (i) any Margin Deficit, Default or Event of Default exists or would exist as a result of such Transaction, (ii) the Repurchase Date for the Purchased Assets subject to such Transaction would be later than the Facility Termination Date, or (iii) after giving effect to such Transaction, the Aggregate Amount Outstanding would exceed the Maximum Amount.

(g) [Reserved].

(h) Notwithstanding any of the foregoing provisions of this Section 3.01 or any contrary provisions set forth in the Custodial Agreement, solely with respect to any Wet Mortgage Asset:

(i) by 12:00 noon (New York City time) on the Purchase Date, the related Seller or Bailee shall deliver signed .pdf copies of the Purchased Asset Documents to Custodian via electronic mail, and such Seller shall deliver the appropriate written third-party wire transfer instructions to Buyer;

(ii) not later than 12:00 noon (New York City time) on the related Purchase Date, (A) Bailee shall deliver an executed .pdf copy of the Bailee Agreement to related Seller, Buyer and Custodian by electronic mail and (B) if Buyer has previously received the trust receipt in accordance with Section 3.01(b) of the Custodial Agreement, determined that all other applicable conditions in this Agreement, including without limitation those set forth in Section 6.02 hereof have been satisfied, and otherwise has agreed to purchase the related Wet Mortgage Asset, Buyer shall (I) execute and deliver a .pdf copy of the related Confirmation to the related Seller and Bailee via electronic mail and (II) wire funds in the amount of the related Purchase Price for the related Wet Mortgage Asset in accordance with the wire transfer instructions that were previously delivered to Buyer by such Seller; and

(iii) within five (5) Business Days after the applicable Purchase Date with respect to any Wet Mortgage Asset, the related Seller shall deliver, or cause to be delivered (A) to Custodian, the complete original Mortgage Asset File with respect to such Wet Mortgage Asset, pursuant to and in accordance with the terms of the Custodial Agreement, and (B) to Buyer, the complete original Underwriting Package with respect to the related Wet Mortgage Assets purchased by Buyer; provided, that, if Buyer's diligence review of the related Mortgage Asset File requires the delivery of a mortgage file, document or instrument or the equivalent that such Seller cannot deliver, or cause to be delivered, to Custodian at the time they are required to be delivered, solely because of a delay caused by the public recording office where such document or instrument has been delivered for recordation, the delivery requirements set forth in this Agreement and the Custodial Agreement shall be deemed to have been satisfied as to such non-delivered Mortgage Asset File, document or instrument if a copy thereof (certified by such Seller to be a true and complete copy of the original thereof submitted for recording) is delivered to Custodian on or before the date on which such original is required to be delivered, and either the original of such non-delivered document or instrument, or a photocopy thereof, with evidence of recording thereon, is delivered to Custodian within ninety (90) days of the related Purchase Date, and, provided, further, that Buyer may, but is not obligated to, consent to a later date for delivery of any part of the Mortgage Asset File in its sole discretion.

(i) Purchased Assets with an initial Recourse Percentage of greater than twenty-five percent (25%) that have been sufficiently modified or otherwise rehabilitated may be re-submitted by Seller for an adjustment to such Recourse Percentage, with such request including all supporting documentation and information as requested by Buyer. Buyer shall determine, in its sole discretion, whether or not to approve or deny each such adjustment request and, if so, on what terms and conditions. Any such adjustment that is approved by Buyer and for which Seller satisfies all other conditions for a Transaction set forth in the Repurchase Documents shall be subject to an amended and restated Confirmation executed by Seller and Buyer and the Recourse Percentage with respect to such Purchased Asset will thereafter be as set forth in such amended and restated Confirmation for all purposes under the Repurchase

Documents; provided that the Pricing Margin and Applicable Percentage for any such Purchased Asset shall not be changed or modified unless otherwise agreed by Buyer in its sole discretion in the amended and restated Confirmation.

(j) In addition to the foregoing provisions of this Section 3.01, solely with respect to any Mezzanine Related Mortgage Asset owned by a Seller that is being purchased by Buyer hereunder, such Seller shall (i) as part of the Underwriting Package, provide Buyer with such information regarding the related Mezzanine Loans as Buyer may request including, without limitation, any related intercreditor, co-lender or similar agreements, and (ii) in connection with the purchase thereof by Buyer, convey, transfer and assign to Buyer, for no additional consideration from Buyer, each Mezzanine Loan relating to such Mezzanine Related Mortgage Asset owned by such Seller, Guarantor or any of their respective Affiliates to Buyer, in form and substance satisfactory to Buyer, together with all other documents necessary or desirable to effect such collateral assignment, in each case as determined by Buyer and its counsel in their discretion

(k) Notwithstanding anything to the contrary herein, in no event shall any LIBOR Based Transaction be entered into on or after January 1, 2022, unless otherwise agreed by Buyer in its sole discretion.

Section 3.02 Transfer of Purchased Assets; Servicing Rights. On the Purchase Date for each Purchased Asset, and subject to the satisfaction of all applicable conditions precedent in Article 6, (a) ownership of and title to such Purchased Asset shall be transferred to and vest in Buyer or its designee against the simultaneous transfer of the Purchase Price to the account of the related Seller specified in Annex 1 (or if not specified therein, in the related Confirmation or as directed by such Seller), and (b) such Seller hereby sells, transfers, conveys and assigns to Buyer on a servicing-released basis all of such Seller's right, title and interest (except with respect to any Retained Interests) in and to such Purchased Asset, together with all related Servicing Rights. Subject to this Agreement, during the Funding Period a Seller may sell to Buyer, repurchase from Buyer and re-sell Eligible Assets to Buyer, but Sellers may not substitute other Eligible Assets for Purchased Assets. Buyer has the right to designate each servicer of the Purchased Assets. The Servicing Rights and other servicing provisions under this Agreement are not severable from or to be separated from the Purchased Assets under this Agreement; and, such Servicing Rights and other servicing provisions of this Agreement constitute (a) "related terms" under this Agreement within the meaning of Section 101(47)(A)(i) of the Bankruptcy Code and/or (b) a security agreement or other arrangement or other credit enhancement related to the Repurchase Documents. To the extent any additional limited liability company is formed by a Division of Seller (and without prejudice to Sections 8.01 and 9.01 hereof), Seller shall cause each such Division LLC to sell, transfer, convey and assign to Buyer on a servicing released basis and for no additional consideration all of each such Division LLC's right, title and interest in and to each Purchased Asset, together with all related Servicing Rights in the same manner and to the same extent as the sale, transfer, conveyance and assignment by Seller on each related Purchase Date of all of Seller's right, title and interest in and to each Purchased Asset, together with all related Servicing Rights.

Section 3.03 Maximum Amount. The aggregate outstanding Purchase Price for all Purchased Assets as of any date of determination shall not exceed the Maximum Amount. If the aggregate outstanding Purchase Price for all Purchased Assets as of any date of determination exceeds the Maximum Amount, Sellers shall immediately pay to Buyer an amount necessary to reduce such aggregate outstanding Purchase Price to an amount equal to or less than the Maximum Amount. Once per calendar year, so long as no Default or Event of Default has occurred and is continuing, Sellers shall have the option to reduce the Maximum Amount at their discretion without premium or penalty to an amount no less than the then-outstanding aggregate Purchase Price upon three (3) Business Days advance notice to Buyer. In addition, the

Maximum Amount shall be automatically reduced to the outstanding aggregate Purchase Price plus the amount of any remaining unfunded Buyer commitments set forth on all outstanding Confirmations as of the expiration of the Funding Period.

Section 3.04 Early Repurchase Date; Mandatory Repurchases.

(a) The applicable Seller may terminate any Transaction with respect to any or all Purchased Assets sold by such Seller and repurchase such Purchased Assets on any date prior to the Repurchase Date (an "Early Repurchase Date"); provided, that (a) such Seller irrevocably notifies Buyer at least three (3) Business Days before the proposed Early Repurchase Date identifying the Purchased Asset(s) to be repurchased and the Repurchase Price thereof, (b) such Seller delivers a certificate from a Responsible Officer of such Seller in form and substance satisfactory to Buyer certifying that no Margin Deficit, Default or Event of Default exists or would exist as a result of such repurchase and there are no other Liens on the Purchased Assets or Pledged Collateral other than Buyer's Lien, unless all such Liens are satisfied in full on or before the related Early Repurchase Date (c) if the Early Repurchase Date is not a Remittance Date, such Seller pays to Buyer any amount due under Section 12.03 and pays all amounts due to any Affiliated Hedge Counterparty under the related Interest Rate Protection Agreement, (d) such Seller pays to Buyer the related (if any) Exit Fee due and payable, but no such Exit Fee shall be due and payable if the related repurchase occurs in connection with an Exempted Transaction, and (e) such Seller thereafter complies with Section 3.05. Such early terminations and repurchases shall be limited to three (3) occurrences in any calendar week.

(b) In addition to other rights and remedies of Buyer under any Repurchase Document, the applicable Seller shall, within two (2) Business Days of receipt of written notice from Buyer, repurchase any Purchased Asset that no longer qualifies as an Eligible Asset.

(c) In addition to the foregoing, in connection with each repurchase made pursuant to Section 3.04(a), if such repurchase occurs at any time during (i) (x) the First Extension Period if Buyer has not granted the Funding Period Extension Option or (y) the Second Extension Period if Buyer has granted the Funding Period Extension Option, then in either case the applicable Seller shall pay an amount equal to 110% of the applicable Repurchase Price otherwise payable for such date, and (ii) (x) the Second Extension Period if Buyer has not granted the Funding Period Extension Option or (y) the Third Extension Period, then in each case the applicable Seller shall pay an amount equal to 125% of the applicable Repurchase Price otherwise payable for such date; provided, however, if (x) at the time of any repurchase during the time period described in clause (i) above, there are at least seven (7) remaining Purchased Assets and the Debt Yield for all of the remaining Purchased Assets, calculated on an aggregate basis, equals or exceeds nine percent (9.0%), or (y) if at the time of any repurchase during the time period described in clause (ii) above, (i) the Debt Yield for all of the remaining Purchased Assets, calculated on an aggregate basis, equals or exceeds twelve and one-half percent (12.5%), and (ii) the PPV Ratio for all of the remaining Purchased Assets, calculated on an aggregate basis, is less than or equal to forty-five percent (45%), then the amount payable pursuant to the applicable clause shall be solely the applicable Repurchase Price for such date. The proceeds of any payment made pursuant to this Section 3.04(c) in excess of the applicable Repurchase Price that otherwise would have been payable shall be applied by Buyer first to repay any outstanding Margin Deficits, and second to reduce the unpaid Repurchase Prices of all remaining Purchased Assets on a pro rata basis, unless such Seller and Buyer otherwise agree to apply any such amounts differently.

(d) In addition, at any time during the existence of an uncured Event of Default or an unsatisfied Margin Deficit, if a Seller elects to repurchase a Purchased Asset due to the prepayment in whole (but not in part) of the underlying Whole Loan, such Seller shall pay to

Buyer one-hundred percent (100%) of the net proceeds due in connection with the payoff of the underlying Purchased Asset in question, up to the amount of funds necessary to both cure the Event of Default and/or unsatisfied Margin Deficit (and pay in full the Repurchase Price for such Purchased Asset). All such net proceeds in excess of the outstanding Repurchase Price of the related Purchased Asset shall be applied first to any other Purchased Asset to the extent of any Margin Deficit, and then pro-rata to the Repurchase Prices of all other Purchased Assets, unless such Seller and Buyer otherwise agree to apply such amount differently, and if such application has served to fully cure all outstanding Defaults or Events of Default and pay to Buyer any other amounts due and payable under the Repurchase Documents, then any remaining amounts to such Seller.

Section 3.05 Repurchase. On the Repurchase Date for each Purchased Asset, the applicable Seller shall transfer to Buyer the Repurchase Price for such Purchased Asset as of the Repurchase Date, and pay all amounts due to any Affiliated Hedge Counterparty under the related Interest Rate Protection Agreement and, so long as no Event of Default has occurred and is continuing, Buyer shall transfer to such Seller such Purchased Asset, along with all rights validly transferred to Buyer by such Seller on the Purchase Date thereof, whereupon such Transaction with respect to such Purchased Asset shall terminate; provided, however, that, with respect to any Repurchase Date that occurs on the second Business Day prior to the maturity date (as defined under the related Purchased Asset Documents with respect to such Purchased Asset) for such Purchased Asset by reason of clause (d) of the definition of "Repurchase Date", settlement of the payment of the Repurchase Price and such amounts may occur up to the second Business Day after such Repurchase Date; provided, further, that Buyer shall have no obligation to transfer to such Seller, or release any interest in, such Purchased Asset until Buyer's receipt of payment in full of the Repurchase Price therefor. So long as no Event of Default has occurred and is continuing, Buyer shall be deemed to have simultaneously released its security interest in such Purchased Asset, shall authorize Custodian to promptly release to the applicable Seller the Mortgage Asset File for such Purchased Asset, and Buyer shall execute, acknowledge and deliver to the related Seller, at such Seller's sole expense, any and all documents, instruments and agreements necessary to release all security interests in such Purchased Asset, including, to the extent any UCC financing statement filed against such Seller specifically identifies such Purchased Asset, an amendment thereto or termination thereof evidencing the release of such Purchased Asset from Buyer's security interest therein; provided, however, that whether or not an Event of Default has occurred and is continuing hereunder, Buyer shall be required to release the Mortgage Asset File relating to a Purchased Asset and execute, acknowledge and deliver to the related Seller, at such Seller's sole expense, all necessary release documents if (a) the Underlying Obligor has paid the entire principal amount of the underlying Whole Loan and all other amounts due to Seller under the related Purchased Asset Documents and (b) such Seller makes the required prepayment of the underlying Whole Loan in respect of such Purchased Asset hereunder in accordance with Section 5.02. Any such transfer or release shall be without recourse to Buyer and without representation or warranty by Buyer, except that Buyer shall represent to the related Seller, to the extent that good title was transferred and assigned by such Seller to Buyer hereunder on the related Purchase Date, that Buyer is the sole owner of such Purchased Asset, free and clear of any other interests or Liens caused by Buyer's actions or inactions. Any Income with respect to such Purchased Asset received by Buyer or Waterfall Account Bank after payment of the Repurchase Price therefor shall be remitted to the applicable Seller. Notwithstanding the foregoing, on or before the Facility Termination Date, the applicable

Seller shall repurchase all Purchased Assets by paying to Buyer the outstanding Repurchase Price therefor and all other outstanding Repurchase Obligations. Notwithstanding any provision to the contrary contained elsewhere in any Repurchase Document, at any time during the existence of an uncured Default or Event of Default, the related Seller cannot repurchase a Purchased Asset in connection with a full payoff of the underlying Whole Loan by the Underlying Obligor, unless one hundred percent (100%) of the net proceeds due in connection with the relevant payoff shall be paid directly to Buyer. The portion of all such net proceeds in excess of the then-current Repurchase Price of the related Purchased Asset shall be applied by Buyer to reduce any other amounts due and payable to Buyer under this Agreement.

Section 3.06 Extension of the Facility Termination Date and Funding Period.

(a) Facility Termination Date Extension Options. At the request of Sellers delivered to Buyer no earlier than ninety (90) days or later than thirty (30) days before the then-applicable Facility Termination Date, Buyer shall grant up to three (3) extensions of the Facility Termination Date for a period of one (1) year each by giving notice approving such extension to Sellers prior to the then-current Facility Termination Date. The failure of Buyer to so deliver such notice approving the extension shall be deemed to be Buyer's determination not to extend the Facility Termination Date unless Buyer thereafter gives notice to the contrary. Any extension of the Facility Termination Date shall be subject to the following conditions (the "Extension Conditions"): (i) no Default or Event of Default exists on the date of the request to extend and as of the current Facility Termination Date, (ii) no Margin Deficit shall be outstanding on the date of the request to extend and as of the current Facility Termination Date, (iii) each Seller has made a timely request for the extension in question, (iv) the Purchased Assets shall be in compliance with the requirements of the Minimum Portfolio Debt Yield Test that are applicable to the next ensuing Extension Period on the date of the request to extend and as of the current Facility Termination Date, which compliance shall be determined by Buyer in its sole discretion, (v) all Purchased Assets must qualify as Eligible Assets on the date of the request to extend and as of the current Facility Termination Date and (vi) the payment by Sellers to Buyer of the Extension Fee has been effected on or before the current Facility Termination Date; provided that (A) if any Default, Event of Default or outstanding Margin Deficit exists or the Purchased Assets are not in compliance with the Minimum Portfolio Debt Yield Test, Buyer shall grant Sellers a temporary extension not to exceed the time permitted to cure/satisfy such Default, Event of Default, Margin Deficit or Minimum Portfolio Debt Yield Test set forth in the Repurchase Documents, and (B) if any Seller is not in compliance with any of the foregoing Extension Conditions on the date of the related extension request, such request may be submitted by Sellers, setting forth any conditions to extension of the Facility Termination Date that are not in compliance and the reasons for such non-compliance, and such request shall be granted by Buyer if, as of the Facility Termination Date for which such request is submitted, each Seller certifies to Buyer's satisfaction that it is in compliance with each of the conditions set forth in this Section 3.06(a). No additional Transactions shall be entered into after the expiration of the Funding Period.

In connection with each extension of the Facility Termination Date to a date beyond the expiration of the Funding Period, if any unfunded commitments in respect of any Purchased Asset remain outstanding on the Facility Termination Date so extended, the applicable Seller may request funding of such unfunded commitments subject to all terms and conditions of funding set forth in this Agreement, including review and approval by Buyer of such funding based on an updated Underwriting Package, in an aggregate amount not to exceed, for any such Purchased Asset, the product of (x) the Applicable Percentage attributable to such Purchased Asset and (y) the amount of unfunded commitments remaining available in respect of such

Purchased Asset at such time; provided that in no event shall any amounts so funded by Buyer cause the aggregate amounts funded hereunder to exceed the Maximum Amount.

(b) Funding Period Extension Option. If Sellers request to exercise the first option to extend the Facility Termination Date in the manner set forth in Section 3.06(a), then Sellers may request to extend the Funding Period for a period of one (1) year (the "Funding Period Extension Option") ending on the First Extended Facility Termination Date, by delivering written notice from Sellers to Buyer of such request no earlier than ninety (90) days and no later than thirty (30) days prior to the Initial Facility Termination Date. The request of Sellers to exercise the Funding Period Extension Option may be approved or denied by Buyer in Buyer's sole discretion. Sellers' request to exercise the Funding Period Extension Option will be deemed to be denied if any of the Extension Conditions set forth in Section 3.06(a) are not satisfied.

(c) Maximum Amount Upsize Option. At any time during the Funding Period, but in no event more than three (3) times, Sellers may request an increase of the Maximum Amount (the "Upsize Option") by delivery of written notice to Buyer of such request not less than thirty (30) days prior to the requested effective date of the corresponding increase in the Maximum Amount. Each Upsize Option shall be in an amount not less than $50,000,000. Each Upsize Option in an amount greater than $50,000,000 shall be in increments of $50,000,000. Seller's request(s) to exercise an Upsize Option may be approved or denied by Buyer in Buyer's sole discretion; provided, that a request by Seller to exercise an Upsize Option will be deemed to be denied if, on the date of the related request or on the proposed effective date of such request, any of the Extension Conditions set forth in Section 3.06(a) are not satisfied. In addition, no exercise of an Upsize Option shall be effective until Seller has paid to Buyer the Upsize Fee applicable for the related Upsize Option.

Section 3.07 Partial Prepayment. On any Business Day, on three (3) Business Days' prior written notice from the applicable Seller to Buyer, such Seller may partially pay the Repurchase Price of any Purchased Asset, which shall include any related amounts then due and owing to an Affiliated Hedge Counterparty (any such asset, a "Partially Repaid Purchased Asset" and the amount so repaid, the "Partial Payment Amount"). With respect to such payment that is not occasioned by a repayment of principal with respect to the Purchased Asset, such Seller shall give Buyer at least three (3) Business Days prior notice of payment and shall not partially pay in an amount whereby the remaining Purchase Price of any such Purchased Asset, after giving effect to any such partial payment, is less than $500,000. In respect of any Partially Repaid Purchased Asset, the applicable Seller may request, on no less than one (1) Business Day's prior written notice to Buyer, that Buyer pay to such Seller the Partial Payment Amount in respect of such Partially Repaid Purchased Asset. If any such request is delivered to Buyer less than ninety (90) days after Buyer's initial approval to purchase such Purchased Asset from such Seller, Buyer shall pay to such Seller the Partial Payment Amount in respect of such Partially Repaid Purchased Asset. If any such request is delivered to Buyer ninety (90) or more days after Buyer's initial approval to purchase such Purchased Asset from such Seller, Buyer may, in its discretion either decline such request in its entirety, or accept such request in whole or in part and pay to such Seller none, all or part of the Partial Payment Amount in respect of such Partially Repaid Purchased Asset, subject to any terms or conditions Buyer may, in its discretion, require. Any prepayment made under this Section shall be deposited directly into the General Repo Account and, notwithstanding any provision in Section 5.02 to the contrary, applied by Buyer to reduce the unpaid Repurchase Price of the related Purchased Asset within one (1) Business Day after deposit therein, and not, for the avoidance of doubt, on the next Remittance Date.

Section 3.08 Payment of Price Differential and Fees.

(a) Notwithstanding that Buyer and each Seller intend that each Transaction hereunder constitute a sale to Buyer of the Purchased Assets subject thereto, each Seller shall pay to Buyer the accrued value of the Price Differential for each Purchased Asset on each Remittance Date. Buyer shall give the applicable Seller notice of the Price Differential and any fees and other amounts due under the Repurchase Documents on or prior to the second (2nd) Business Day preceding each Remittance Date; provided, that Buyer's failure to deliver such notice shall not affect such Seller's obligation to pay such amounts. If the Price Differential includes any estimated Price Differential, Buyer shall recalculate such Price Differential after the Remittance Date and, if necessary, make adjustments to the Price Differential amount due on the following Remittance Date.

(b) Sellers shall pay to Buyer all fees and other amounts as and when due as set forth in this Agreement including, without limitation, the Structuring Fee, the Extension Fee and the Upsize Fee, each of which shall be paid pursuant to the terms of the Fee Letter:

(i) the Structuring Fee, which was paid prior to the Closing Date by Sellers and Guarantor as set forth in the Fee Letter;

(ii) the Extension Fee, which shall be due and payable by Sellers and Guarantor on or before the first day of each Extension Period; and

(iii) the Upsize Fee, which shall be due and payable by Sellers and Guarantor on the effective date of the related upsize as set forth in the Fee Letter.

Section 3.09 Payment, Transfer and Custody.

(a) Unless otherwise expressly provided herein, all amounts required to be paid or deposited by any Seller, Guarantor or any other Person under the Repurchase Documents shall be paid or deposited in accordance with the terms hereof no later than 3:00 p.m. on the Business Day when due, in immediately available Dollars and without deduction, setoff or counterclaim, and if not received before such time shall be deemed to be received on the next Business Day. Whenever any payment under the Repurchase Documents shall be stated to be due on a day other than a Business Day, such payment shall be made on the next following Business Day, and such extension of time shall in such case be included in the computation of such payment. Each Seller, Guarantor and Pledgor shall, to the extent permitted by Requirements of Law, pay to Buyer interest in connection with any amounts not paid when due under the Repurchase Documents, which interest shall be calculated at a rate equal to LIBOR plus the Pricing Margin plus 350 basis points, until all such amounts are received in full by Buyer. Amounts payable to Buyer and not otherwise required to be deposited into the Waterfall Account shall be deposited into the General Repo Account. Sellers shall have no rights in, rights of withdrawal from, or rights to give notices or instructions regarding Buyer's account or the Waterfall Account or any Collection Account; provided that the Sellers may withdraw funds from the Waterfall Account or any Collection Account with the prior written consent of Buyer in accordance with the terms of the related Controlled Account Agreement. Amounts in the Waterfall Account and/or any Collection Account may be invested at the direction of Buyer in cash equivalents before they are distributed in accordance with Article 5.

(b) Any Purchased Asset Documents not delivered to Buyer or Custodian on the relevant Purchase Date and subsequently received or held by or on behalf of a Seller are and

shall be held in trust by the applicable Seller or its agent for the benefit of Buyer as the owner thereof until so delivered to Buyer or Custodian. The related Seller or its agent shall maintain a copy of such Purchased Asset Documents and the originals of the Purchased Asset Documents not delivered to Buyer or Custodian. The possession of Purchased Asset Documents by the applicable Seller or its agent is in a custodial capacity only at the will of Buyer for the sole purpose of assisting Interim Servicer with its duties under the Servicing Agreement. Each Purchased Asset Document retained or held by or on behalf of a Seller or its agent shall be segregated on such Seller's books and records from the other assets of such Seller or its agent, and the books and records of such Seller or its agent shall be marked to reflect clearly the sale of the related Purchased Asset to Buyer on a servicing released basis. Each Seller or its agent shall release its custody of the Purchased Asset Documents only in accordance with written instructions from Buyer, unless such release is required as incidental to the servicing of the Purchased Assets by Interim Servicer or is in connection with a repurchase of any Purchased Asset by a Seller, in each case in accordance with the Custodial Agreement.

Section 3.10 Repurchase Obligations Absolute. All amounts payable by Sellers under the Repurchase Documents shall be paid without notice, demand, counterclaim, setoff, deduction or defense (as to any Person and for any reason whatsoever) and without abatement, suspension, deferment, diminution or reduction (as to any Person and for any reason whatsoever), and the Repurchase Obligations shall not be released, discharged or otherwise affected, except upon indefeasible payment in full or as otherwise expressly provided herein, by reason of: (a) any damage to, destruction of, taking of, restriction or prevention of the use of, interference with the use of, title defect in, encumbrance on or eviction from, any Purchased Asset or related Mortgaged Property, (b) any Insolvency Proceeding relating to any Seller, any Underlying Obligor or any other loan participant under a Senior Interest, or any action taken with respect to any Repurchase Document, Purchased Asset Document by any trustee or receiver of Seller, any Underlying Obligor or any other loan participant under a Senior Interest, or by any court in any such proceeding, (c) any claim that Seller has or might have against Buyer under any Repurchase Document or otherwise (unless such claim relates to the indefeasible payment in full of the Repurchase Obligations), (d) any default or failure on the part of Buyer to perform or comply with any Repurchase Document or other agreement with a Seller, (e) the invalidity or unenforceability of any Purchased Asset, Repurchase Document or Purchased Asset Document, or (f) any other occurrence whatsoever, whether or not similar to any of the foregoing, and whether or not any Seller has notice or Knowledge of any of the foregoing. The Repurchase Obligations shall be full recourse to each Seller. This Section 3.10 shall survive the termination of the Repurchase Documents and the payment in full of the Repurchase Obligations.

Section 3.11 Future Funding Transactions.

(a) Each Future Funding Transaction shall be subject to the following terms and conditions:

(i) The applicable Seller shall give Buyer written notice of each proposed Future Funding Transaction, together with a draft of the amended and restated Confirmation signed by a Responsible Officer of Seller. Each amended and restated Confirmation shall identify the related Whole Loan and/or Senior Interest, shall identify Buyer and the applicable Seller, shall set forth the requested Future Funding Amount and shall be executed by both Buyer and such Seller; provided, however, that Buyer shall not be liable to Seller if it inadvertently acts on an amended and restated Confirmation that has not been signed by a Responsible Officer of Seller. Each amended and restated Confirmation, together with this Agreement, shall be conclusive evidence of the terms of

the Future Funding Transaction covered thereby, and shall be construed to be cumulative to the extent possible. If terms in an amended and restated Confirmation are inconsistent with terms in this Agreement with respect to a particular Future Funding Transaction, such amended and restated Confirmation shall prevail.

(ii) For each proposed Future Funding Transaction, the applicable Seller shall deliver to Buyer a Future Funding Request Package no less than seven (7) Business Days prior to the proposed date of such Future Funding Transaction. Buyer shall have the right to conduct an additional due diligence investigation of the Future Funding Request Package and/or the related Purchased Asset as Buyer determines. Any Future Funding Transaction shall be subject to the following conditions as determined by Buyer in its sole discretion: (A) all of the applicable conditions precedent for a Transaction, as described in Section 6.02(b), (e), (f) and (h) have been met by such Seller; (B) the consummation of the related Future Funding Transaction would not cause such Seller to breach the Minimum Portfolio Debt Yield Test; (C) if Buyer has not purchased from such Seller a complete ownership interest in the entire related Whole Loan, all of the terms and conditions relating to the splitting of such Whole Loan into multiple interests are satisfactory to Buyer in all respects; (D) all related conditions precedent set forth in the related Purchased Asset Documents have been satisfied; and (E) prior to or simultaneously with Buyer's funding of the Future Funding Transaction, Seller has funded or caused to be funded to the Underlying Obligor (or to an escrow agent or as otherwise directed by the Underlying Obligor) its pro rata portion of the related future advance to the Underlying Obligor (collectively, the "Future Funding Transaction Conditions"). Upon Buyer's determination in its sole and absolute discretion that the Future Funding Transaction Conditions have been satisfied, Buyer shall advance the requested Future Funding Amount in accordance with clause (iii) below. If Buyer determines that the Future Funding Transaction Conditions have not been satisfied and does not advance the requested Future Funding Amount with respect to any such Future Funding Transaction, Seller shall promptly satisfy all future funding obligations with respect thereto as and when required pursuant to the related Purchased Asset Documents, together with the terms of this Agreement.

(iii) Upon the entry by Buyer into a particular Future Funding Transaction, Buyer shall deliver to Seller a signed copy of the related amended and restated Confirmation described in clause (i) above. On the date of such Future Funding Transaction, which shall occur no later than three (3) Business Days after the final approval of such Future Funding Transaction by Buyer in accordance with clause (ii) above, (a) if an escrow agreement has been established in connection with such Future Funding Transaction, Buyer shall remit the related Future Funding Amount to the related escrow account, (b) if the terms of the Purchased Asset Documents provide for a reserve account in connection with future advances, Buyer shall remit the related Future Funding Amount to the applicable reserve account, (c) upon evidence satisfactory to Buyer that Seller has paid (or cause to be paid) to or as directed by the related Underlying Obligor the entire future funding obligation required by the related Purchased Asset Documents, Buyer shall remit the related Future Funding Amount to Seller, and (d) otherwise, Buyer shall remit the related Future Funding Amount directly to the related Underlying Obligor.

(b) Notwithstanding anything to the contrary herein, in no event shall any Future Funding Transaction with respect to any LIBOR Based Transaction be entered into on or after January 1, 2022, unless otherwise agreed by Buyer in its sole discretion.

ARTICLE 4

MARGIN MAINTENANCE

Section 4.01 Margin Deficit.

(a) (i) If on any date the Market Value of a Purchased Asset is less than the product of (A) the Margin Percentage times (B) the outstanding Repurchase Price for such Purchased Asset as of such date (the excess, if any, a "Margin Deficit"), and provided that (I) a Credit Event relating to such Purchased Asset has occurred, and (II) each Margin Deficit shall exclude any portion thereof that resulted from any interest rate changes and/or credit spread movements, then the related Seller shall, within five (5) Business Days after the receipt of written notice from Buyer (which notice may be by electronic mail) (a "Margin Call") (i) transfer cash to Buyer, (ii) repurchase Purchased Assets at the Repurchase Price thereof, or (iii) choose any combination of the foregoing, so that, after giving effect to such transfers, repurchases and payments, the aggregate Purchase Price for all Purchased Assets does not exceed an aggregate amount equal to the products of the Market Value for each Purchased Asset, times the Applicable Percentage. Buyer shall apply the funds received in satisfaction of a Margin Deficit with respect to a Purchased Asset to the Repurchase Obligations owing with respect to such Purchased Asset.

(ii) In lieu of a Margin Call pursuant to Section 4.01(a)(i), Buyer may, in its discretion upon written request of the related Seller, reallocate previous partial prepayments made pursuant to Section 3.07 in order to eliminate the related Margin Deficit by increasing the Purchase Price of certain Purchased Assets and decreasing the Purchase Price of other Purchased Assets. Any such request for reallocation shall include a certification by such Seller that no Default or Event of Default has occurred and is continuing (except as would be cured by such reallocation), and shall set forth the following, with such back-up calculations as Buyer may require: (i) the amount of prior partial prepayments and Purchased Assets so prepaid pursuant to Section 3.07 that such Seller requests be re-allocated, (ii) the Purchased Asset to which such Seller is requesting such prior partial prepayment be applied, the new Purchase Price of such Purchased Asset and the new Purchase Price of the previously prepaid Purchased Asset, in each case, after giving pro forma effect to such allocation, (iii) the amount of the Margin Deficit on each applicable Purchased Asset both immediately prior to and immediately after giving pro forma effect to such allocation and (iv) the PPV Test will be satisfied and the Applicable Percentage of such Purchased Asset will not exceed the Maximum Applicable Percentage, in each case after giving pro forma effect to such allocation. Upon Buyer's independent confirmation, in its commercially reasonable judgment, that the conclusions and calculations set forth in the related Seller's written request comply with the requirements set forth above, Buyer may, in its discretion, reallocate previous prepayments to those Purchased Assets for which Margin Deficits would otherwise exist, in a manner acceptable to Buyer in its commercially reasonable judgment and such Seller shall submit new Confirmations acceptable to Buyer reflecting the new Purchase Price of all affected Purchased Assets. Notwithstanding anything to the contrary herein, in no event shall Buyer make a reallocation in respect of any LIBOR Based Transaction *(i.e.*, in such a way that the Purchase Price of any such LIBOR Based Transaction would be increased) at any time to cure in whole or in part a Margin Deficit relating to (x) any SOFR Based Transaction or (y) any LIBOR Based Transaction where such reallocation would result in an increase to the Purchase Price of any LIBOR Based Transaction with a Repurchase Date that is later than the Repurchase Date of the LIBOR Based Transaction in respect of which such Margin Deficit exists.

(b) Notwithstanding the foregoing, in the event the Margin Call arises solely as a result of Buyer's determination of an adverse change in the value of the related Mortgaged Property as described in item (iv) of the definition of the term Credit Event, and if the related Seller disputes in good faith such determination by Buyer, such Seller shall have the right by, within the five (5) Business Day period specified in Section 4.01(a)(i), giving Buyer written notice of such dispute and depositing with Buyer (in an account within Buyer's sole dominion and control) the full amount of the Margin Deficit and, the parties will proceed to attempt to resolve such dispute within the next forty-five (45) days in accordance with the appraisal procedure set forth in Schedule 3 hereto, provided that, for the avoidance of doubt, any such dispute period shall not limit any other rights or privileges of Buyer.

(c) Buyer's election not to deliver, or to forbear from delivering, a margin deficit notice at any time there is a Margin Deficit shall not waive or be deemed to waive the Margin Deficit or in any way limit, stop or impair Buyer's right to deliver a margin deficit notice at any time when the same or any other Margin Deficit exists. Buyer's rights relating to Margin Deficits under this Section 4.01 are cumulative and in addition to and not in lieu of any other rights of Buyer under the Repurchase Documents or Requirements of Law.

(d) All cash transferred to Buyer pursuant to this Section 4.01 with respect to a Purchased Asset shall be deposited into the General Repo Account and notwithstanding any provision in Section 5.02 to the contrary, shall be applied to reduce the Purchase Price of such Purchased Asset within one (1) Business Day after deposit and not, for the avoidance of doubt, on the next Remittance Date.

(e) If the applicable Seller believes in good faith that the Credit Event or underlying circumstances that resulted in the most recent determination of Current Mark-to-Market Value of a Purchased Asset is no longer applicable or that the Market Value resulting from such Credit Event has otherwise materially increased, it may request that Buyer consider reassessing the Market Value of the subject Purchased Asset, and Buyer agrees to do so. If, as a result of such reassessment, Buyer determines, in its discretion, that the Market Value for such Purchased Asset has increased, and has received all required internal credit approvals necessary to do so, the Current Mark-to-Market Value shall be revised accordingly, subject to further adjustment as otherwise provided in this Agreement. Such Seller's requests for Buyer to reassess the Market Value of Purchased Assets shall be limited to one (1) request per Purchased Asset per calendar quarter. Nothing in this Section 4.01(e) shall be interpreted to in any way reduce or mitigate Buyer's sole power and discretion to determine Market Value or Credit Event.

(f) If on any date within ninety (90) days following the Purchase Date of a particular Purchased Asset (and provided no Default or Event of Default has occurred and is then continuing and no Margin Deficit remains unpaid), either (i) the outstanding Purchase Price of such Purchased Asset has previously been reduced by one or more previous partial prepayments made by a Seller in accordance with Section 3.07, or (ii) on such Purchase Date, the Purchase Price of such Purchased Asset was, at such Seller's request, less than the maximum Purchase Price approved by Buyer, as indicated on the related Confirmation, such Seller may deliver a written request to Buyer that Buyer pay to such Seller an amount equal to the amount of either (A) part or all of the partial prepayments described in clause (i) above, and/or (B) part or all of the difference described in clause (ii) above, and Buyer shall pay to such Seller the amount so requested within three (3) Business Days of the date of the related request, so long as, both immediately before and, on a pro forma basis, immediately after the date of each such payment, both the Minimum Portfolio Debt Yield Test and the PPV Test have not been breached. Prior to any such payment, such Seller shall prepare, and the Parties shall execute an amended and

restated Confirmation that is otherwise acceptable to the Parties, reflecting such increased Purchase Price.

ARTICLE 5

APPLICATION OF INCOME

Section 5.01 Waterfall Account; Collection Accounts. The Waterfall Account and all Collection Accounts shall be established at Waterfall Account Bank. Buyer shall have sole dominion and control (including, without limitation, "control" within the meaning of Section 9-104(a)(2) of the UCC) over the Waterfall Account. None of any Seller, Interim Servicer or any Person claiming through or under any Seller or Interim Servicer shall have any claim to or interest in the Waterfall Account and all Collection Accounts; provided that the Sellers (or Interim Servicer, at the direction of a Seller) may withdraw funds from the Waterfall Account or any Collection Account with the prior written consent of Buyer in accordance with the terms of the related Controlled Account Agreement. Subject to the final sentence of this Section 5.01, all Underlying Obligors and servicers shall be directed to pay all Income directly into the Collection Account, and any Income received by a Seller, Interim Servicer, Buyer or Waterfall Account Bank in respect of the Purchased Assets shall be deposited directly into the Waterfall Account, within two (2) Business Days of receipt, except to the extent expressly set forth in Section 3.07, and except, prior to an Event of Default, for all amounts due and payable to Interim Servicer under the Interim Servicing Agreement, which shall be paid directly to Interim Servicer as and when due, shall be applied to and remitted by Waterfall Account Bank in accordance with this Article 5. Notwithstanding the foregoing, each Seller shall, promptly after receiving notice of an Underlying Obligor's intent to make an unscheduled Principal Payment (A) instruct and cause the related Underlying Obligor to directly deposit such unscheduled Principal Payment into the General Repo Account (and in the event that such unscheduled Principal Payment is nonetheless received by the applicable Seller or Interim Servicer, shall forward such funds into the General Repo Account on the Business Day of receipt, unless such payment was received after 1 PM (Central time), in which case the recipient shall use its best efforts to make such transfer on the same Business Day and shall, in all cases, make such transfer on the next Business Day); and within one (1) Business Day of the receipt thereof, Buyer shall apply the each such Principal Payment in accordance with Sections 5.02 and 5.03 below, and (B) provide Buyer with prior notice of the intended receipt thereof from an Underlying Obligor, together with a copy of the related remittance instructions that were previously delivered to the related Underlying Obligor.

Section 5.02 Before an Event of Default. If no Event of Default exists and remains uncured, all Income described in Section 5.01 and deposited into the Waterfall Account during each Pricing Period shall be applied by Waterfall Account Bank, Buyer or a Person designated by Buyer pursuant to the related Controlled Account Agreement by no later than the next following Remittance Date in the following order of priority:

first, to the extent not withheld by Interim Servicer in accordance with Sections 5.01 and 8.06, to pay to Interim Servicer an amount equal to any accrued and unpaid Servicing Fees (as defined in the Interim Servicing Agreement) in accordance with the terms of the Interim Servicing Agreement;

second, to pay to Buyer an amount equal to the Price Differential accrued with respect to all Purchased Assets as of such Remittance Date;

third, to pay to Buyer an amount equal to all default interest, late fees, fees, expenses and Indemnified Amounts then due and payable from any Seller and other applicable Persons to Buyer under the Repurchase Documents;

fourth, to pay to Buyer an amount sufficient to eliminate any outstanding Margin Deficit (without limiting any Seller's obligation to satisfy a Margin Deficit in a timely manner as required by Section 4.01);

fifth, to pay any custodial fees and expenses due and payable under the Custodial Agreement;

sixth, to pay to Buyer, the Applicable Percentage of any scheduled Principal Payments (to the extent actually deposited into the Waterfall Account), but only to the extent that such remittance would not result in the creation of a Margin Deficit, to be applied to reduce the outstanding Purchase Price of the applicable Purchased Assets or as otherwise agreed in writing by Buyer and the applicable Seller;

seventh, to pay to Buyer any other amounts then due and payable from any Seller and other applicable Persons to Buyer under the Repurchase Documents; and

eighth, to pay to the applicable Seller any remainder for its own account, subject, however, to the covenants and other requirements of the Repurchase Documents; provided that, if any Material Facility Default has occurred and is continuing on such Remittance Date, all amounts otherwise payable to such Seller hereunder shall be retained in the Waterfall Account until the earlier of (x) the day on which Buyer provides written notice to the Waterfall Account Bank that such Material Facility Default has been cured to satisfaction of Buyer in its sole discretion, at which time the Waterfall Account Bank shall apply all such amounts pursuant to this priority *eighth*; and (y) the day that is ten (10) Business Days after the occurrence of the applicable Material Facility Default, at which time the Waterfall Account Bank shall apply all such amounts pursuant to priorities *sixth* and *seventh* of Section 5.03.

Section 5.03 After an Event of Default. If an Event of Default exists and remains uncured, all Income deposited into the Waterfall Account in respect of the Purchased Assets shall be applied by Waterfall Account Bank, Buyer or a Person designated by Buyer pursuant to the related Controlled Account Agreement on the second Business Day following the date on which each amount of Income is so deposited, in the following order of priority:

first, to pay to Buyer an amount equal to the Price Differential accrued with respect to all Purchased Assets as of such date;

second, to pay to Buyer an amount equal to all default interest, late fees, fees, expenses and Indemnified Amounts then due and payable from any Seller and other applicable Persons to Buyer under the Repurchase Documents;

third, to pay any custodial fees and expenses due and payable under the Custodial Agreement;

fourth, to pay to Buyer an amount equal to the aggregate Repurchase Price of all Purchased Assets (to be applied in such order and in such amounts as determined by Buyer, until the aggregate Repurchase Price of all Purchased Assets has been reduced to zero);

fifth, to pay to Interim Servicer, amounts due and payable under the Servicing Agreement;

sixth, to pay to Buyer all other Repurchase Obligations due to Buyer; and

seventh, if all of the Repurchase Obligations have been fully repaid, to pay to the applicable Seller any remainder for its own account, subject, however, to the covenants and other requirements of the Repurchase Documents.

Section 5.04 Sellers to Remain Liable. If the amounts remitted to Buyer as provided in Sections 5.02 and 5.03 are insufficient to pay all amounts due and payable from each Seller to Buyer under this Agreement or any Repurchase Document on a Remittance Date, a Repurchase Date, upon the occurrence of an Event of Default or otherwise, each Seller shall nevertheless remain liable for and shall pay to Buyer when due all such amounts.

ARTICLE 6

CONDITIONS PRECEDENT

Section 6.01 Conditions Precedent to Closing. The effectiveness of the Existing Repurchase Agreement, including Buyer's obligation to enter into any Transaction and/or purchase any Asset thereunder, was subject to the satisfaction or waiver by Buyer, of the conditions precedent set forth in Section 6.01 of the Existing Repurchase Agreement.

(a) Conditions Precedent to Closing of this Third Amended and Restated Repurchase Agreement. The effectiveness of this Agreement, including the amendment and restatement of the Existing Repurchase Agreement and Buyer's obligation to enter into any Transaction and/or purchase any Asset hereunder, is subject to the satisfaction or waiver by Buyer, of the following conditions precedent, on and as of the Closing Date and the initial Purchase Date:

(i) Buyer has received the following documents, each dated the Closing Date or as of the Closing Date unless otherwise specified: (A) the Closing Date Repurchase Documents duly executed and delivered by the parties thereto, (B) an official good standing certificate dated a recent date with respect to each Seller, (C) certificates of the secretary or an assistant secretary of each Seller with respect to attached copies of the Governing Documents and applicable resolutions of each Seller, and the incumbencies and signatures of officers of each Seller executing the Repurchase Documents to which it is a party, evidencing the authority of each Seller with respect to the execution, delivery and performance thereof, (D) a Closing Certificate and (E) such opinions from counsel to each Seller as Buyer may reasonably require, including with respect to corporate matters, enforceability, non-contravention, no consents or approvals required other than those that have been obtained, first priority perfected security interests in the Purchased Assets and any other collateral pledged pursuant to the Repurchase Agreement, Investment Company Act matters, and the applicability of Bankruptcy Code safe harbors (or reaffirmations bringing down all legal opinions delivered to Buyer on May 17, 2017), and all other documents, certificates, information, financial statements and reports as requested in writing by Buyer prior to the Closing Date.

(ii) (A) UCC financing statements have been filed against each Seller and Pledgor in all filing offices required by Buyer, (B) Buyer has received such searches of

UCC filings, tax liens, judgments, pending litigation and other matters relating to any Seller and the Purchased Assets as Buyer may require, and (C) the results of such searches are satisfactory to Buyer;

(iii) Buyer has received payment from Sellers of all fees and expenses then payable under the Fee Letter and the other Repurchase Documents, as contemplated by Section 13.02;

(iv) Buyer has completed to its satisfaction such due diligence (including, Buyer's "Know Your Customer", Anti-Corruption Laws, Sanctions and Anti-Money Laundering Laws diligence) and modeling as Buyer may require; and

(v) Buyer has received approval from its internal credit committee and all other necessary approvals required for Buyer, to enter into this Agreement and consummate Transactions hereunder.

Section 6.02 Conditions Precedent to All Transactions. Buyer shall not be obligated to enter into any Transaction, purchase any Asset, or be obligated to take, fulfill or perform any other action hereunder relating to the prospective purchase of any Asset or to fund any future fundings relating to any existing Purchased Asset, until the following additional conditions have been satisfied or waived by Buyer, with respect to each Asset on and as of the Purchase Date therefor:

(a) Buyer has received the following documents: (i) a Transaction Request, (ii) an Underwriting Package, (iii) a Confirmation, (iv) a trust receipt and other items required to be delivered under the Custodial Agreement, (v) with respect to any Wet Mortgage Asset, a Bailee Agreement, (vi) all other documents, certificates, information, financial statements, reports, approvals and opinions of counsel as Buyer may require and (vii) evidence that each Seller is in good standing in the jurisdiction where the underlying Mortgaged Property is located, to the extent that such Seller is then-currently required to do so under an applicable Requirement of Law (provided, however, that with respect to any Wet Mortgage Asset, delivery of the foregoing items in accordance with the provisions of Section 3.01(g) and (h) shall be deemed to satisfy the conditions of Section 6.02(a) (unless otherwise determined in the discretion of Buyer));

(b) immediately before such Transaction and after giving effect thereto and to the intended use thereof, no Representation Breach (including with respect to any Purchased Asset), Default, Event of Default, Margin Deficit, or Material Adverse Effect related to any Seller or Guarantor;

(c) Buyer has completed its due diligence review of the Underwriting Package, Purchased Asset Documents and such other documents, records and information as Buyer deems appropriate, and the results of such reviews are satisfactory to Buyer;

(d) Buyer has (i) determined that such Asset is an Eligible Asset, (ii) approved the purchase of such Asset, (iii) obtained all necessary internal credit and other approvals for such Transaction and (iv) executed the Confirmation;

(e) immediately after giving effect to such Transaction, the Aggregate Amount Outstanding does not exceed the Maximum Amount;

(f) the Repurchase Date specified in the Confirmation is not later than the Facility Termination Date;

(g) Each Seller, Pledgor and Custodian have satisfied all requirements and conditions and have performed all covenants, duties, obligations and agreements contained in the Repurchase Documents to be performed by such Person on or before the Purchase Date;

(h) to the extent the related Purchased Asset Documents contain notice, cure and other provisions in favor of a pledgee under a repurchase or warehouse facility, and without prejudice to the sale treatment of such Asset to Buyer, Buyer has received evidence that each Seller has given notice to the applicable Persons of Buyer's interest in such Asset and otherwise satisfied any other applicable requirements under such pledgee provisions so that Buyer is entitled to the rights and benefits of a pledgee under such pledgee provisions;

(i) if requested by Buyer, such opinions from counsel to Sellers, Pledgor and Guarantor as Buyer may require, including, without limitation, with respect to the perfected security interest in the Purchased Assets, the Pledged Collateral and any other collateral pledged pursuant to the Repurchase Document;

(j) Custodian (or a bailee) shall have received executed blank assignments of all Purchased Asset Documents in appropriate form for recording, to the extent such documents are required to be recorded, in the jurisdiction in which the underlying real estate is located, together with executed blank assignments of all other Purchased Asset Documents (the "Blank Assignment Documents"); and

(k) (i) Buyer has received a copy of any Interest Rate Protection Agreement and related documents entered into with respect to such Asset, (ii) each Seller has assigned to Buyer all of such Seller's rights (but none of its obligations) under such Interest Rate Protection Agreement and related documents, and (iii) no termination event, default or event of default (however defined) exists thereunder.

Each Confirmation delivered by a Seller shall constitute a certification by such Seller that all of the conditions precedent in this Article 6 have been satisfied other than those set forth in Sections 6.01(a)(vi), (d) and (e) and Section 6.02(a)(vii), (c) and (d).

The failure of a Seller to satisfy any of the conditions precedent in this Article 6 with respect to any Transaction or Purchased Asset shall, unless such failure was set forth in an exceptions schedule to the relevant Confirmation or otherwise waived in writing by Buyer on or before the related Purchase Date, give rise to the right of Buyer at any time to rescind the related Transaction, whereupon the related Seller shall immediately pay to Buyer the Repurchase Price of such Purchased Asset.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller represents and warrants, on and as of the date of this Agreement, each Purchase Date, and at all times when any Repurchase Document or Transaction is in full force and effect, as follows:

Section 7.01 Sellers. Each Seller has been duly organized and validly exists in good standing as a limited liability company under the laws of the jurisdiction of its incorporation, organization or formation. Each Seller (a) has all requisite power, authority, legal

right, licenses and franchises, (b) is duly qualified to do business in all jurisdictions necessary, and (c) has been duly authorized by all necessary action, to (w) own, lease and operate its properties and assets, (x) conduct its business as presently conducted, (y) execute, deliver and perform its obligations under the Repurchase Documents to which it is a party, and (z) acquire, own, sell, assign, pledge and repurchase the Purchased Assets, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect. Each Seller's exact legal name is set forth in the preamble and signature pages of this Agreement. Each Seller's location (within the meaning of Article 9 of the UCC), and the office where each Seller keeps all records (within the meaning of Article 9 of the UCC) relating to the Purchased Assets is at the address of Sellers referred to in Annex 1. Each Seller has not changed its name within the past twelve (12) months. Each Seller has changed its location to the location shown in Section 7.16 within the past twelve (12) months. ACRC Seller's organizational identification number is 5044236 and its tax identification number is 45-3561907. TRS Seller's organizational identification number is 5447261 and its tax identification number is 80-0966058. Each Seller has no subsidiaries. Each Seller is a wholly-owned Subsidiary of Pledgor. The fiscal year of each Seller is the calendar year. Each Seller has no Indebtedness, Contractual Obligations or Investments other than (a) ordinary trade payables, (b) in connection with Assets acquired or originated for the Transactions, (c) the Repurchase Documents, and (d) ordinary and necessary expenses incurred in connection with any of the activities permitted under Section 9.01(q) or (s). Each Seller has no Guarantee Obligations.

Section 7.02 Repurchase Documents. Each Repurchase Document to which a Seller is a party has been duly executed and delivered by such Seller and constitutes the legal, valid and binding obligation of such Seller enforceable against such Seller in accordance with its terms, except as such enforceability may be limited by Insolvency Laws and general principles of equity. The execution, delivery and performance by each Seller of each Repurchase Document to which it is a party do not and will not (a) conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under, any (i) Governing Document, Indebtedness, Guarantee Obligation or Contractual Obligation applicable to such Seller or any of its properties or assets, (ii) Requirements of Law, or (iii) approval, consent, judgment, decree, order or demand of any Governmental Authority (except where such conflict, breach or default could not reasonably be expected to have a Material Adverse Effect), or (b) result in the creation of any Lien (other than, except with respect to any Purchased Asset, any Liens granted pursuant to the Repurchase Documents) on any of the properties or assets of such Seller. All approvals, authorizations, consents, orders, filings, notices or other actions of any Person or Governmental Authority required for the execution, delivery and performance by each Seller of the Repurchase Documents to which it is a party and the sale of and grant of a security interest in each Purchased Asset to Buyer, have been obtained, effected, waived or given and are in full force and effect. The execution, delivery and performance of the Repurchase Documents do not require compliance by any Seller with any "bulk sales" or similar law. There is no material litigation, proceeding or investigation pending or, to the Knowledge of any Seller threatened, against any Seller, Guarantor or any Specified Affiliate before any Governmental Authority (a) asserting the invalidity of any Repurchase Document, (b) seeking to prevent the consummation of any Transaction, or (c) seeking any determination or ruling that could reasonably be expected to have a Material Adverse Effect.

Section 7.03 Solvency. None of the Sellers, Guarantor or any Specified Affiliate is or has ever been the subject of an Insolvency Proceeding. Each Seller, Guarantor and each Specified Affiliate is Solvent and the Transactions do not and will not render such Seller, Guarantor or any Specified Affiliate not Solvent. Neither Seller is entering into the Repurchase Documents or any Transaction with the intent to hinder, delay or defraud any creditor of a Seller,

Guarantor or any Specified Affiliate. Each Seller has received or will receive reasonably equivalent value for the Repurchase Documents and each Transaction. Each Seller has adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations. Each Seller is generally able to pay, and as of the date hereof is paying, its debts as they come due.

Section 7.04 Taxes. Each Seller, Guarantor and each Specified Affiliate have each timely filed all required federal tax returns and all other material tax returns, domestic and foreign, required to be filed by them and have (for all prior fiscal years and for the current fiscal year to date) timely paid all federal and other material taxes (including mortgage recording taxes), assessments, fees, and other governmental charges (whether imposed with respect to their income or any of their properties or assets) which have become due and payable, other than any such taxes, assessments, fees, or other governmental charges that are being contested in good faith by appropriate proceedings diligently conducted and for which appropriate reserves have been established in accordance with GAAP. Each Seller, Guarantor and each Specified Affiliate have paid, or have provided adequate reserves for the payment of, all such taxes for all prior fiscal years and for the current fiscal year to date. There is no material action, suit, proceeding, investigation, audit or claim relating to any such taxes now pending or, to the Knowledge of Seller, threatened by any Governmental Authority which is not being contested in good faith as provided above. None of the Sellers, Guarantor or any Specified Affiliate have entered into any agreement or waiver or been requested to enter into any agreement or waiver extending any statute of limitations relating to the payment or collection of taxes, or is aware of any circumstances that would cause the taxable years or other taxable periods of any Seller, Guarantor or any Specified Affiliate not to be subject to the normally applicable statute of limitations. No tax liens have been filed against any assets of any Seller, Guarantor or any Specified Affiliate. Each Seller does not intend to treat any Transaction as being a "reportable transaction" as defined in Treasury Regulation Section 1.6011–4. If either Seller determines to take any action inconsistent with such intention, it will promptly notify Buyer, in which case Buyer may treat each Transaction as subject to Treasury Regulation Section 301.6112–1 and will maintain the lists and other records required thereunder.

Section 7.05 True and Complete Disclosure. The information, reports, certificates, documents, financial statements, operating statements, forecasts, books, records, files, exhibits and schedules furnished by or on behalf of either Seller to Buyer in connection with the Repurchase Documents and the Transactions, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. All written information furnished after the date hereof by or on behalf of any Seller to Buyer in connection with the Repurchase Documents and the Transactions will be true, correct and complete in all material respects or in the case of projections will be based on reasonable estimates prepared and presented in good faith, in each case, on the date as of which such information is stated or certified, except that this representation will be made to the best Knowledge of the applicable Seller for all such written information obtained from Persons who are not Affiliates of Seller.

Section 7.06 Compliance with Laws. Each Seller has complied in all respects with all Requirements of Law, and no Purchased Asset contravenes any Requirements of Law, except in each case where such matters would not be reasonably likely to have a Material

Adverse Effect. None of Sellers, Guarantor or, to the best knowledge of Sellers or Guarantor, after due inquiry, any Affiliate of any Seller or Guarantor is in violation of any Sanctions. None of Sellers, Guarantor or any Affiliate of Sellers or Guarantor is a Sanctioned Target. The proceeds of any Transaction have not been and will not be used, directly or indirectly, to fund any operations in, finance any investments or activities in or make any payments to a Sanctioned Target or otherwise in violation of Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws. Each Seller is a "qualified purchaser" as defined in the Investment Company Act. Neither Seller, Guarantor nor any Specified Affiliate (a) is, nor immediately after the application by any Seller of the proceeds of any sale of a Purchased Asset will they be, required to be registered as an "investment company" as defined in the Investment Company Act, (b) is a "broker" or "dealer" as defined in, or could be subject to a liquidation proceeding under, the Securities Investor Protection Act of 1970, or (c) is subject to regulation by any Governmental Authority limiting its ability to incur the Repurchase Obligations. Each Seller, Guarantor and all Subsidiaries of each Seller and Guarantor are in compliance with the Foreign Corrupt Practices Act of 1977, as amended and any foreign counterpart thereto. None of Seller, Guarantor nor any Subsidiary of any Seller or Guarantor, has made, offered, promised or authorized a payment of money or anything else of value (a) in order to assist in obtaining or retaining business for or with, or directing business to, any foreign official, foreign political party, party official or candidate for foreign political office, (b) to any foreign official, foreign political party, party official or candidate for foreign political office, or (c) with the intent to induce the recipient to misuse his or her official position to direct business wrongfully to any Seller, any Affiliate of a Seller or any other Person, in violation of the Foreign Corrupt Practices Act of 1977, as amended.

Section 7.07 Compliance with ERISA. None of Sellers, Pledgor or Guarantor has any employees as of the date of this Agreement.

Section 7.08 No Default or Material Adverse Effect. No Default or Event of Default exists. No Internal Control Event has occurred. Each Seller has delivered to Buyer all underlying servicing agreements (or provided Buyer with access to a service, internet website or other system where Buyer can successfully access such agreements) with respect to the Purchased Assets, and to the related Seller's Knowledge no material default or event of default (however defined) exists thereunder. Each Seller has delivered to Buyer copies of all credit facilities, repurchase facilities and substantially similar facilities of such Seller that are presently in effect, and no default or event of default (however defined) on the part of any Seller exists thereunder.

Section 7.09 Purchased Assets. Each Purchased Asset is an Eligible Asset. Each representation and warranty of either Seller set forth in the Repurchase Documents (including in Schedule 1 applicable to the Class of such Purchased Asset) and the Purchased Asset Documents with respect to each Purchased Asset is true and correct. The review and inquiries made on behalf of each Seller in connection with the next preceding sentence have been made by Persons having the requisite expertise, knowledge and background to verify such representations and warranties. Each Seller has complied with all material requirements of the Custodial Agreement with respect to each Purchased Asset, including delivery to Custodian of all required Purchased Asset Documents. As of the Purchase Date for each Purchased Asset, each Seller has no Knowledge of any fact that could reasonably lead it, in its reasonable business judgment, to expect that any Purchased Asset will not be paid in full.

Section 7.10 Purchased Assets Acquired from Transferors. With respect to each Purchased Asset purchased by a Seller or an Affiliate of a Seller from a Transferor, (a) such Purchased Asset was acquired and transferred pursuant to a Purchase Agreement, (b) such Transferor received reasonably equivalent value in consideration for the transfer of such Purchased Asset, (c) no such transfer was made for or on account of an antecedent debt owed by such Transferor to such Seller or an Affiliate of such Seller, and (d) if such Seller acquired the Purchased Asset from an Affiliate other than Pledgor, then, if requested by Buyer, such Seller has delivered to Buyer an opinion of counsel regarding the true sale of the purchase of such Asset by such Seller and, if such Asset was acquired by an Affiliate of such Seller other than Pledgor from another Affiliate, the true sale of the purchase of such Asset by the Affiliate of such Seller from the Transferor Affiliate, which opinions shall be in form and substance satisfactory to Buyer. Each Seller or such Affiliate of such Seller has been granted a back-up security interest in each such Purchased Asset, filed one or more UCC financing statements against the Transferor to perfect such security interest, and assigned such financing statements in blank and delivered such assignments to Buyer or Custodian.

Section 7.11 Transfer and Security Interest. The Repurchase Documents constitute a valid and effective transfer to Buyer of all right, title and interest of each Seller in, to and under all Purchased Assets (together with all related Servicing Rights) sold to Buyer by such Seller, free and clear of any Liens. With respect to the protective security interest granted by each Seller in Section 11.01, upon the delivery of the Confirmations and the Purchased Asset Documents to Custodian, the execution and delivery of the Controlled Account Agreement and the filing of the UCC financing statements as provided herein, such security interest shall be a valid first priority perfected security interest to the extent such security interest can be perfected by possession, filing or control under the UCC. Upon receipt by Custodian of each Purchased Asset Documents required to be endorsed in blank by the applicable Seller and payment by Buyer of the Purchase Price for the related Purchased Asset, Buyer shall either own such Purchased Asset and the related Purchased Asset Documents or have a valid first priority perfected security interest in such Purchased Asset Document. The Purchased Assets constitute the following, as defined in the UCC: a general intangible, instrument, investment property, security, deposit account, financial asset, uncertificated security, securities account, or security entitlement. Neither Seller has sold, assigned, pledged, granted a security interest in, encumbered or otherwise conveyed any of the Purchased Assets to any Person other than pursuant to the Repurchase Documents. Neither Seller has authorized the filing of, and is not aware of, any UCC financing statements filed against any Seller as debtor that include the Purchased Assets, other than any financing statement that has been terminated or filed pursuant to this Agreement.

Section 7.12 No Broker. Except in connection with the origination of any or all of the Purchased Assets, neither Seller nor any Affiliate of any Seller has dealt with any broker, investment banker, agent or other Person, except for Buyer or an Affiliate of Buyer, who may be entitled to any commission or compensation in connection with any Transaction.

Section 7.13 Interest Rate Protection Agreements. (a) Each Seller has entered into all Interest Rate Protection Agreements required under Section 8.09, (b) each such Interest Rate Protection Agreement is in full force and effect, (c) no termination event, default or event of default (however defined) exists thereunder, and (d) each Seller has effectively assigned to Buyer all such Seller's rights (but none of its obligations) under such Interest Rate Protection Agreement.

Section 7.14 Separateness. Each Seller is in compliance with the requirements of Article 9.

Section 7.15 Location of Books and Records. The location where each Seller keeps its books and records, including all computer tapes and records relating to the Purchased Assets is its chief executive office.

Section 7.16 Chief Executive Office; Jurisdiction of Organization. On the Effective Date, each Seller's chief executive office, is, and has been, located at 245 Park Avenue, 42nd Floor, New York New York 10167. On the Effective Date, each Seller's jurisdiction of organization is Delaware. Each Seller shall provide Buyer with thirty (30) days advance notice of any change in such Seller's principal office or place of business or jurisdiction. Neither Seller has any trade name. During the preceding five (5) years, neither Seller has been known by or done business under any other name, corporate or fictitious, and has not filed or had filed against it any bankruptcy receivership or similar petitions nor has it made any assignments for the benefit of creditors.

Section 7.17 Entity Classification. ACRC Seller is either a domestic partnership or a disregarded entity of a domestic corporation, in each case for U.S. federal income tax purposes.

Section 7.18 Anti-Money Laundering Laws and Anti-Corruption Laws. The operations of each of Sellers and Guarantor are, and have been, conducted at all times in compliance with applicable Anti-Money Laundering Laws and Anti-Corruption Laws. No litigation, regulatory or administrative proceedings of or before any court, tribunal or agency with respect to any Anti-Money Laundering Laws or Anti-Corruption Laws have been started or (to the best of its knowledge and belief) threatened against each of Sellers and Guarantor or any of their respective Subsidiaries.

Section 7.19 Sanctions. None of Sellers, Guarantor or any Affiliates of Sellers or Guarantor (a) is a Sanctioned Target, or (b) is controlled by or is acting on behalf of a Sanctioned Target. To the best knowledge of Sellers or Guarantor after due inquiry, none of Sellers or Guarantor are aware of any investigation for an alleged breach of Sanctions by a Governmental Authority that enforces Sanctions.

Section 7.20 Investment Company Act. Each Seller is exempt under the Investment Company Act pursuant to an exemption other than the exemption set forth in Section 3(c)(1) or 3(c)(7) of the Investment Company Act.

Section 7.21 Beneficial Ownership Certification. The information included in each Beneficial Ownership Certification is true and correct in all respects.

ARTICLE 8
COVENANTS OF SELLERS

Until the Repurchase Obligations are indefeasibly paid in full (other than contingent indemnification obligations) and the Repurchase Documents are terminated, each Seller shall perform and observe the following covenants, which shall be given independent effect (so that unless otherwise specifically provided, if a particular action or condition is prohibited by any covenant, the fact that it would be permitted by an exception to or be otherwise within the limitations of another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists):

Section 8.01 Existence; Governing Documents; Conduct of Business. Each Seller shall (a) preserve and maintain its legal existence, (b) qualify and remain qualified in good standing in each jurisdiction where the failure to be so qualified would have a Material Adverse Effect, (c) comply with its Governing Documents, including all special purpose entity provisions, (d) not modify, amend or terminate its Governing Documents and (e) qualify to do business in any jurisdiction where an underlying Mortgaged Property is located, to the extent required to do so in accordance with applicable Requirements of Law (i) presently, in order to hold the interest of a lender under the related Purchased Asset Documents and receive the payments contemplated thereunder, and (ii) at or before the time of enforcement of any rights or remedies under the related Purchased Asset Documents, to the extent necessary to enforce such rights and remedies or hold title to the underlying Mortgaged Property. Each Seller shall (a) continue to engage in the same (and no other) general lines of business as presently conducted by it or as permitted hereby, (b) maintain and preserve all of its material rights, privileges, licenses and franchises necessary for the operation of its business except in each case where any failure to do so would not be reasonably likely to have a Material Adverse Effect, and (c) maintain such Seller's status as a qualified transferee, qualified institutional lender or qualified lender (however defined), if applicable, under the Purchased Asset Documents. Each Seller shall not (A) change its name, organizational number, tax identification number, fiscal year, method of accounting, identity, structure or jurisdiction of organization (or have more than one such jurisdiction), move the location of its principal place of business and chief executive office (as defined in the UCC) from the location referred to in Section 7.01, or (B) move, or consent to Custodian moving, the Purchased Asset Documents from the location thereof on the applicable Purchase Date for each related Purchased Assets, unless in each case such Seller has given at least thirty (30) days prior notice to Buyer and has taken all actions required under the UCC to continue the first priority perfected security interest of Buyer in the Purchased Assets. Each Seller shall enter into each Transaction as principal, unless Buyer agrees before a Transaction that such Seller may enter into such Transaction as agent for a principal and under terms and conditions disclosed to Buyer.

Section 8.02 Compliance with Laws, Contractual Obligations and Repurchase Documents. Each Seller shall comply in all material respects with each and every Requirement of Laws, including those relating to any Purchased Asset and to the reporting and payment of taxes except in each case where the failure to do so would not be reasonably likely to have a Material Adverse Effect. No part of the proceeds of any Transaction shall be used for any purpose that violates Regulation T, U or X of the Board of Governors of the Federal Reserve System. Each Seller shall conduct or cause to be conducted the requisite due diligence in connection with the origination or acquisition of each Purchased Asset for purposes of complying with the Anti–Terrorism Laws, including with respect to the legitimacy of the applicable Underlying Obligor and the origin of the assets used by such Person to purchase the underlying Mortgaged Property, and will maintain sufficient information to identify such Person for purposes of the Anti–Terrorism Laws. Each Seller shall maintain the Custodial Agreement and Controlled Account Agreement in full force and effect.

Section 8.03 Protection of Buyer's Interest in Purchased Assets. With respect to each Purchased Asset, the related Seller shall take all action necessary or required by the Repurchase Documents, Purchased Asset Documents and each and every Requirement of Law, or reasonably requested by Buyer, to perfect, protect and more fully evidence the security interest granted in the Purchase Agreements and Buyer's ownership of and first priority perfected security interest in such Purchased Asset and related Purchased Asset Documents, including executing or causing to be executed (a) such other instruments or notices as may be necessary or appropriate and filing and maintaining effective UCC financing statements, continuation

statements and assignments and amendments thereto, and (b) all documents necessary to both collaterally and absolutely and unconditionally assign all post-acquisition rights, if any, (but none of the obligations) of each Seller under each Purchase Agreement, in each case as additional collateral security for the payment and performance of each of the Repurchase Obligations. Each Seller shall (a) not assign, sell, transfer, pledge, hypothecate, grant, create, incur, assume or suffer or permit to exist any security interest in or Lien (other than, except with respect to any Purchased Asset, any Liens granted pursuant to the Repurchase Documents) on any Purchased Asset to or in favor of any Person other than Buyer, (b) defend such Purchased Asset against, and take such action as is necessary to remove, any such Lien, and (c) defend the right, title and interest of Buyer in and to all Purchased Assets against the claims and demands of all Persons whomsoever. Notwithstanding the foregoing, (i) if any Seller grants a Lien on any Purchased Asset in violation of this Section 8.03 or any other Repurchase Document, such Seller shall be deemed to have simultaneously granted an equal and ratable Lien on such Purchased Asset in favor of Buyer to the extent such Lien has not already been granted to Buyer; provided, that such equal and ratable Lien shall not cure any resulting Event of Default and (ii) to the extent any additional limited liability company is formed by a Division of Seller (and without prejudice to Sections 8.01 and 9.01 hereof), Seller shall cause any such Division LLC to assign, pledge and grant to Buyer, for no additional consideration, all of its assets, and shall cause any owner of each such Division LLC to pledge all of the Equity Interests and any rights in connection therewith of each such Division LLC to Buyer, for no additional consideration, in support of all Repurchase Obligations in the same manner and to the same extent as the assignment, pledge and grant by Seller of all of Seller's assets hereunder, and in the same manner and to the same extent as the pledge by Pledgor of all of Pledgor's right, title and interest in all of the Equity Interests of Seller and any rights in connection therewith, in each case pursuant to the Pledge and Security Agreement. Each Seller shall not materially amend, modify, waive or terminate any provision of any Purchase Agreement or the Servicing Agreement. Each Seller shall not, or permit Interim Servicer to, make any Material Modification to any Purchased Asset or Purchased Asset Document. Each Seller shall mark its computer records and tapes to evidence the interests granted to Buyer hereunder. Each Seller shall not take any action to cause any Purchased Asset that is not evidenced by an instrument or chattel paper (as defined in the UCC) to be so evidenced. If a Purchased Asset becomes evidenced by an instrument or chattel paper, the same shall be immediately delivered to Custodian on behalf of Buyer, together with endorsements required by Buyer.

Section 8.04 Distributions and Dividends. Each Seller shall not declare or make any payment on account of, or set apart assets for, a sinking or similar fund for the purchase, redemption, defeasance, retirement or other acquisition of any Equity Interest of such Seller, Guarantor or any Affiliate of such Seller or Guarantor, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of such Seller, Guarantor or any Affiliate of such Seller or Guarantor except that, at all times (a) prior to a Default or Event of Default, such Seller may declare and pay cash dividends or distributions to Pledgor or Guarantor, and (b) Guarantor may declare and pay cash dividends or distributions to its equityholders so long as Guarantor is then-currently in compliance with all of the covenants, terms and conditions set forth in the Guarantee Agreement; provided that Guarantor can declare and pay such dividend whether or not a Default or an Event of Default has occurred, but in no event shall the aggregate amount of cash permitted to be distributed in each calendar quarter by Guarantor to its shareholders in respect of their stock in Guarantor exceed the minimum amount necessary for Guarantor to continue to qualify as a REIT and avoid the payment of income and excise Taxes. For the avoidance of doubt, nothing in this Agreement or any of the other Repurchase Documents shall preclude Guarantor from declaring consent dividends in accordance with Section 565 of the Code.

Section 8.05 Financial Covenants. Neither Seller shall permit the ratio of its EBITDA to its Interest Expense to be less than 1.50 to 1.00 at any time.

Section 8.06 Delivery of Income. Each Seller shall, and pursuant to Irrevocable Redirection Notices shall cause Interim Servicer and all other applicable Persons to, deposit all Income in respect of the Purchased Assets (other than Income paid directly to Interim Servicer in accordance with Section 5.01) into either the General Repo Account or the Waterfall Account in accordance with Sections 3.07, 4.01 and 5.01 hereof within the time periods specified therein. Seller and Interim Servicer (a) shall comply with and enforce each Irrevocable Redirection Notice, (b) shall not amend, modify, waive, terminate or revoke any Irrevocable Redirection Notice without Buyer's consent, and (c) shall take all reasonable steps to enforce each Irrevocable Redirection Notice. In connection with each Principal Payment, each Seller shall provide or cause to be provided to Buyer and Custodian sufficient detail to enable Buyer and Custodian to identify the Purchased Asset to which such Principal Payment applies. If any Seller receives any rights, whether in addition to, in substitution of, as a conversion of, or in exchange for any Purchased Assets, or otherwise in respect thereof, such Seller shall accept the same as Buyer's agent, hold the same in trust for Buyer and promptly deliver the same to Buyer or its designee in the exact form received, together with duly executed instruments of transfer, stock powers or assignment in blank and such other documentation as Buyer shall reasonably request. If any Income is received by a Seller, Guarantor or any Affiliate of a Seller or Guarantor, such Seller shall pay or deliver such Income to Buyer or Custodian on behalf of Buyer within two (2) Business Days after receipt, and, until so paid or delivered, hold such Income in trust for Buyer, segregated from other funds of such Seller.

Section 8.07 Delivery of Financial Statements and Other Information. Each Seller shall deliver the following to Buyer, as soon as available and in any event within the time periods specified:

(a) within sixty (60) days after the end of each of the first three (3) fiscal quarters of each fiscal year of Guarantor, (i) the unaudited consolidated balance sheets of Guarantor and its Subsidiaries as at the end of each such period, (ii) the related unaudited consolidated statements of income, retained earnings and cash flows for such period and the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous year, and (iii) a Compliance Certificate;

(b) within one-hundred and twenty (120) days after the end of each fiscal year of Guarantor, (i) the consolidated balance sheets of Guarantor and its Subsidiaries as at the end of such fiscal year, (ii) the related consolidated statements of income, retained earnings and cash flows for such year, audited by a firm of accountants that is then approved by the Public Company Accounting Oversight Board, setting forth in each case in comparative form the figures for the previous year, (iii) an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall not be qualified as to scope of audit or going concern and shall state that said financial statements fairly present the financial condition and results of operations of Guarantor and its Subsidiaries as at the end of and for such fiscal year in accordance with GAAP, and (iv) a Compliance Certificate;

(c) with respect to each Purchased Asset and related underlying Mortgaged Property serviced by any Seller or an Affiliate of any Seller: (i) within thirty (30) days after the end of each fiscal quarter of such Seller, a quarterly report of the following: delinquency, loss experience, internal risk rating, surveillance, rent roll, occupancy and other property-level information, and (ii) within ten (10) days after receipt or preparation thereof by such Seller or Interim Servicer, remittance, servicing, securitization, exception and other reports, operating and financial statements of Underlying Obligors, and modifications or updates to the items contained in the Underwriting Package;

(d) any other material agreements, correspondence, documents or other information not included in an Underwriting Package which is related to such Seller or the Purchased Assets, as soon as possible after the discovery thereof by such Seller, Guarantor or any Affiliate of such Seller or Guarantor; and

(e) such other information regarding the financial condition, operations or business of such Seller, Guarantor or any Underlying Obligor as Buyer may reasonably request.

Section 8.08 Delivery of Notices. Each Seller shall promptly notify Buyer of the occurrence of any of the following of which such Seller has Knowledge, together with a certificate of a Responsible Officer of such Seller setting forth details of such occurrence and any action such Seller has taken or proposes to take with respect thereto:

(a) a Representation Breach;

(b) any of the following: (i) with respect to any Purchased Asset or related underlying Mortgaged Property: material change in Market Value, material loss or damage, material licensing or permit issues, material violation of Requirements of Law, discharge of or damage from Materials of Environmental Concern, any other actual or expected event or change in circumstances that could reasonably be expected to result in a default or material decline in value or cash flow or if any Purchased Asset becomes a Defaulted Asset, and (ii) with respect to any Seller: violation of Requirements of Law, material decline in the value of a Seller's assets or properties, an Internal Control Event or other event or circumstance that could reasonably be expected to have a Material Adverse Effect;

(c) the existence of any Default, Event of Default or material default under or related to a Purchased Asset, any Purchased Asset Document, Indebtedness, Guarantee Obligation or Contractual Obligation of any Seller;

(d) the resignation or termination of Interim Servicer under the Servicing Agreement;

(e) the establishment of a rating by any Rating Agency applicable to any Seller, Guarantor or any Specified Affiliate and any downgrade in or withdrawal of such rating once established;

(f) the commencement of, settlement of or material judgment in any litigation, action, suit, arbitration, investigation or other legal or arbitrable proceedings before any Governmental Authority that (i) affects any Seller, Guarantor or any Specified Affiliate, Purchased Asset, Pledged Collateral or underlying Mortgaged Property, (ii) questions or challenges the validity or enforceability of any Repurchase Document, Transaction, Purchased Asset or any Purchased Asset Document, or (iii) individually or in the aggregate, if adversely determined, could reasonably be likely to have a Material Adverse Effect;

(g) any change in ACRC Seller's status as either a domestic partnership or a disregarded entity of a domestic corporation, in each case for U.S. federal income tax purposes; or

(h) any change in Guarantor's status as a REIT.

Section 8.09 Hedging. With respect to each Purchased Asset that is a Hedge Required Asset, the applicable Seller shall enter into one or more one-hundred percent (100%) cash-collateralized Interest Rate Protection Agreement(s) at the direction of and in a form acceptable to Buyer with a Hedge Counterparty. Each Seller shall take such actions as Buyer

deems necessary to perfect the security interest granted in each Interest Rate Protection Agreement pursuant to Section 11.01, and shall assign or pledge to Buyer, which assignment or pledge shall be consented to in writing by each Hedge Counterparty, all of such Seller's rights (but none of the obligations) in, to and under each Interest Rate Protection Agreement. Each Interest Rate Protection Agreement shall contain provisions acceptable to Buyer for additional credit support in the event the rating of any Rating Agency assigned to the Hedge Counterparty (other than an Affiliated Hedge Counterparty) is downgraded or withdrawn, in which event such Seller shall ensure that such additional credit support is provided or promptly, subject to the approval of Buyer, enter into new Interest Rate Protection Agreements with respect to the related Purchased Assets with a replacement Hedge Counterparty.

Section 8.10 Escrow Imbalance. Each Seller shall, no later than five (5) Business Days after learning of any material overdraw, deficit or imbalance in any escrow or reserve account relating to a Purchased Asset, correct and eliminate the same by requesting the Underlying Obligor to correct and eliminate the same, including by depositing its own funds into such account.

Section 8.11 Pledge and Security Agreement. Each Seller shall not take any direct or indirect action inconsistent with the Pledge and Security Agreement or the security interest granted thereunder to Buyer in the Pledged Collateral. Each Seller shall not permit any additional Persons to acquire Equity Interests in such Seller other than the Equity Interests owned by Pledgor and pledged to Buyer on or prior to the Closing Date, and such Seller shall not permit any sales, assignments, pledges or transfers of the Equity Interests in such Seller other than to Buyer.

Section 8.12 Entity Classification.

(a) ACRC Seller will be either a domestic partnership or a disregarded entity of a domestic corporation, in each case for U.S. federal income tax purposes.

(b) Guarantor will continue to qualify as a REIT.

Section 8.13 Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(a) The proceeds of any Transaction shall not be used, directly or indirectly, for any purpose which would breach any applicable Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(b) Sellers and Guarantor shall each (i) conduct its business in compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions; and (ii) maintain policies and procedures designed to promote and achieve compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(c) The repurchase of any Purchased Asset or any other payment due to Buyer under this Agreement or any other Repurchase Document shall not be funded, directly or indirectly, with proceeds derived from a transaction that would be prohibited by Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions, or in any manner that would cause any Seller, Guarantor or any Affiliates of any Seller or Guarantor to be in breach of any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(d) Sellers shall conduct or cause to be conducted the requisite due diligence in connection with the origination or acquisition of each Purchased Asset for purposes of complying with all applicable Anti-Money Laundering Laws, including with respect to the

legitimacy of the applicable Underlying Obligor and the origin of the assets used by such Person to purchase the underlying Mortgaged Property, and will maintain sufficient information to identify such Person for purposes of such Anti-Money Laundering Laws.

Section 8.14 Compliance with Sanctions. The proceeds of any Transaction hereunder will not, directly or indirectly, be used to lend, contribute, or otherwise be made available to any Sanctioned Target or any Person (i) to fund any activities or business of or with a Sanctioned Target, or (ii) be used in any manner that would be prohibited by Sanctions or would otherwise cause Buyer to be in breach of any Sanctions. Sellers and Guarantor shall comply with all applicable Sanctions, and shall maintain policies and procedures reasonably designed to ensure compliance with Sanctions. Sellers or Guarantor shall notify the Buyer in writing not more than three (3) Business Days after becoming aware of any breach of Section 7.19 or this Section 8.14.

Section 8.15 Beneficial Ownership. To the extent that any Seller is a "legal entity customer" under the Beneficial Ownership Regulation, such Seller shall promptly give notice to Buyer of any change in the information provided in any Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein and shall promptly deliver an updated Beneficial Ownership Certification to Buyer.

ARTICLE 9

SINGLE-PURPOSE ENTITY

Section 9.01 Covenants Applicable to Seller. Each Seller shall (a) own no assets, and shall not engage in any business, other than the assets and transactions specifically contemplated by this Agreement and any other Repurchase Document; (b) not incur any Indebtedness or other obligation, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (I) with respect to the Purchased Asset Documents and the Retained Interests, (II) commitments to make loans which may become Eligible Assets, and (III) as otherwise permitted under this Agreement; (c) not make any loans or advances to any Affiliate or any other Person and shall not acquire obligations or securities of its Affiliates, in each case other than in connection with the origination or acquisition of Assets for purchase under the Repurchase Documents; (d) pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) only from its own assets; (e) comply with the provisions of its Governing Documents; (f) do all things necessary to observe organizational formalities and to preserve its existence, and shall not amend, modify, waive provisions of or otherwise change its Governing Documents with respect to the matters set forth in this Article 9; (g) maintain all of its books, records and bank accounts separate from those of any other Person; (h) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not have its assets listed on any financial statement of any other Person; provided, however, that each Seller's assets may be included in a consolidated financial statement of its Affiliate provided that (I) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of such Seller from such Affiliate and to indicate that Seller's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person and (II) such assets shall also be listed on such Seller's own separate balance sheet; (i) file its own tax returns separate from those of any other Person, except to the extent that each Seller is not required to file tax returns under Requirements of Law; (j) be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, and shall not identify itself or any of its Affiliates as a division of the other; (k) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; (l) to the fullest extent permitted

by law, not adopt, file or effect a Division or engage in or suffer any Change of Control, dissolution, winding up, liquidation, consolidation or merger in whole or in part or convey or transfer all or substantially all of its properties and assets to any Person (except as contemplated herein); (m) not commingle its funds or other assets with those of any Affiliate or any other Person; (n) maintain its properties, assets and accounts separate from those of any Affiliate or any other Person, (o) not guarantee any obligation of any Person, including any Affiliate, become obligated for the debts of any other Person, or hold out its credit or assets as being available pay the obligations of any other Person, (p) from and after the SPV Conversion Date for such Seller, abide by the Independent Manager Provisions; (q) except for capital contributions or capital distributions permitted under the terms and conditions of its Governing Documents and properly reflected on the books and records of each applicable Seller, not enter into any transaction with an Affiliate of Seller except on commercially reasonable terms no less favorable than those available to unaffiliated parties in an arm's length transaction; (r) maintain a sufficient number of employees in light of contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; (s) use separate stationary, invoices and checks bearing its own name; (t) allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including for shared office space and for services performed by an employee of an Affiliate; (u) not pledge its assets to secure the obligations of any other Person; and (v) not form, acquire or hold any Subsidiary or own any Equity Interest in any other entity.

Section 9.02 Additional Covenants Applicable to Sellers. Each Seller (i) shall be a Delaware limited liability company, (ii) shall not take any Insolvency Action and shall not cause or permit the members or managers of such entity to take any Insolvency Action, with respect to itself, unless all of its Independent Director(s) or Independent Manager(s) then serving as managers of the company shall have consented in writing to such action (directly or indirectly), and (iii) shall have either (A) a member which owns no economic interest in the company, has signed the company's limited liability company agreement and has no obligation to make capital contributions to the company, or (B) two natural persons or one entity that is not a member of the company, that has signed its limited liability company agreement and that, under the terms of such limited liability company agreement becomes a member of the company immediately prior to the resignation or dissolution of the last remaining member of the company. Each Seller shall have no direct parent other than Pledgor.

ARTICLE 10
EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default. Each of the following events shall be an "Event of Default":

(a) either Seller fails to make a payment of (i) Margin Deficit or Repurchase Price (other than Price Differential) when due, whether by acceleration or otherwise (including, if applicable, any Future Funding Amounts related to a Future Funding Transaction), (ii) Price Differential within one (1) Business Day of when due, or (iii) any fee or other amount within two (2) Business Days of when due unless such Seller did not have knowledge of such required payment, in which case within two (2) Business Days after receipt of notice that such payment is due and owing, in each case under the Repurchase Documents;

(b) either Seller fails to observe or perform in any material respect any other Repurchase Obligation of such Seller under the Repurchase Documents or the Purchased Asset Documents to which such Seller is a party (other than the reporting requirements set forth in Section 8.07(d)), and (except in the case of a failure to perform or observe the Repurchase Obligations of such Seller under Sections 8.03 and 18.06(a)) such failure continues unremedied for ten (10) Business Days after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by any Seller provided, however, that in the event such matters are not

reasonably susceptible to cure in such period, so long as (i) such Seller is diligently attempting to cure the same and (ii) such matters could not be reasonably expected to materially adversely affect the value of any Purchased Asset or collectability of any amounts due with respect to any Purchased Asset, such period shall be extended by the time reasonably necessary to cure such matter, which shall not, in any event, exceed an additional thirty (30) days;

(c) any Representation Breach exists and continues unremedied for five (5) Business Days after the earlier of receipt of notice thereof from Buyer or the discovery of such failure by either Seller; provided that, the representations and warranties set forth in Section 7.09 and Schedule 1 shall be considered solely to the extent that, either Seller shall have made any such representation and warranty with Knowledge that it was incorrect or untrue;

(d) either (i) the commencement of any enforcement action by an obligee against any Seller or Guarantor with respect to any Indebtedness, Guarantee Obligation or Contractual Obligation, provided that the aggregate amount of the Indebtedness, Guarantee Obligations and/or Contractual Obligations in respect of which such enforcement action is commenced (either individually or in the aggregate) is in excess of $500,000 with respect to such Seller, or $5,000,000 with respect to Guarantor, or (ii) if any Seller or Guarantor defaults in making any payment required to be made under one or more agreements for borrowed money to which it is a party in an aggregate amount in excess of $500,000 with respect to such Seller, or $15,000,000 with respect to Guarantor, and any such failure in not cured within applicable cure period, if any, provided for under the related agreement;

(e) any Seller, Guarantor or any Specified Affiliate defaults beyond any applicable grace period in paying any amount or performing any obligation due to Buyer or any Affiliate of Buyer under any other financing, hedging, security or other agreement (other than under this Agreement) between a Seller, Guarantor or any Specified Affiliate and Buyer or any Affiliate of Buyer, including, without limitation, Guarantor's obligations under the Guarantee Agreement;

(f) an Insolvency Event occurs with respect to a Seller, Guarantor or any Specified Affiliate;

(g) a Change of Control occurs with respect to a Seller, Guarantor or any Specified Affiliate other than Pledgor;

(h) a final judgment or judgments for the payment of money in excess of $500,000 with respect to any Seller, or $5,000,000 with respect to Guarantor in the aggregate is entered against any Seller or Guarantor by one or more Governmental Authorities and the same is not satisfied, discharged (or provision has not been made for such discharge) or bonded, or a stay of execution thereof has not been procured, within ten (10) Business Days from the date of entry thereof;

(i) a Governmental Authority takes any action to (i) condemn, seize or appropriate, or assume custody or control of, all or any substantial part of the property of either Seller, (ii) displace the management of either Seller or curtail its authority in the conduct of the business of either Seller, (iii) terminate the activities of either Seller as contemplated by the Repurchase Documents, or (iv) remove, limit or restrict the approval of either Seller of the foregoing as an issuer, buyer or a seller of securities, and in each case such action is not discontinued or stayed within thirty (30) days;

(j) any Seller, Guarantor or any Specified Affiliate admits that it is not Solvent or is generally not able or not willing to perform any of its Repurchase Obligations,

Contractual Obligations, Guarantee Obligations, Capital Lease Obligations or Off-Balance Sheet Obligations;

(k) any material provision of the Repurchase Documents, any material right or remedy of Buyer or obligation, covenant, agreement or duty of either Seller thereunder, or any Lien, security interest or control granted under or in connection with the Repurchase Documents, Pledged Collateral or Purchased Assets terminates, is declared null and void, ceases to be valid and effective, ceases to be the legal, valid, binding and enforceable obligation of Sellers or any other Person, or the validity, effectiveness, binding nature or enforceability thereof is contested, challenged, denied or repudiated by either Seller or any other Person, in each case directly, indirectly, in whole or in part;

(l) Buyer ceases for any reason to have a valid and perfected first priority security interest in any Purchased Asset or any Pledged Collateral;

(m) Guarantor, either Seller or any Specified Affiliate is required to register as an "investment company" (as defined in the Investment Company Act);

(n) either Seller engages in any conduct or action where Buyer's prior consent is required by any Repurchase Document and Seller fails to obtain such consent;

(o) Interim Servicer, either Seller or any other Affiliate of a Seller fails to deposit to the Waterfall Account all Income and other amounts as required by Section 5.01 and other provisions of this Agreement within two (2) Business Days of when due;

(p) Guarantor's audited annual financial statements or the notes thereto or other opinions or conclusions stated therein are qualified or limited by reference to the status of Guarantor as a "going concern" or a reference of similar import, other than a qualification or limitation expressly related to Buyer's rights in the Purchased Assets;

(q) any termination event or event of default (however defined) shall have occurred with respect to either Seller under any Interest Rate Protection Agreement or Guarantor breaches any of the obligations, terms or conditions set forth in the Guarantee Agreement;

(r) any Material Modification is made to any Purchased Asset or any Purchased Asset Document without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed; or

(s) Seller adopts, files, or effects a Division.

Section 10.02 Remedies of Buyer as Owner of the Purchased Assets. If an Event of Default exists, at the option of Buyer, exercised by notice to either Seller (which option shall be deemed to be exercised, even if no notice is given, automatically and immediately upon the occurrence of an Event of Default under Section 10.01(f)), the Repurchase Date for all Purchased Assets shall be deemed automatically and immediately to occur (the date on which such option is exercised or deemed to be exercised, the "Accelerated Repurchase Date"). If Buyer exercises or is deemed to have exercised the foregoing option:

(a) All Repurchase Obligations shall become immediately due and payable on and as of the Accelerated Repurchase Date.

(b) All amounts in the Waterfall Account and all Income paid after the Accelerated Repurchase Date shall be retained by Buyer and applied in accordance with Article 5.

(c) Buyer may complete any assignments, allonges, endorsements, powers or other documents or instruments executed in blank and otherwise obtain physical possession of all Purchased Asset Documents and all other instruments, certificates and documents then held by or on behalf of Custodian under the Custodial Agreement. Buyer may obtain physical possession of all Servicing Files, Servicing Agreements and other files and records of Sellers or Interim Servicer. Sellers shall deliver to Buyer such assignments and other documents with respect thereto as Buyer shall request.

(d) Buyer may immediately, at any time, and from time to time, exercise either of the following remedies with respect to any or all of the Purchased Assets: (i) sell such Purchased Assets on a servicing-released basis and/or without providing any representations and warranties on an "as-is where is" basis, in a recognized market and by means of a public or private sale at such price or prices as Buyer accepts, and apply the net proceeds thereof in accordance with Article 5, or (ii) retain such Purchased Assets and give Sellers credit against the Repurchase Price for such Purchased Assets (or if the amount of such credit exceeds the Repurchase Price for such Purchased Assets, to credit against Repurchase Obligations due and any other amounts (without duplication) then owing to Buyer by any other Person pursuant to any Repurchase Document, in such order and in such amounts as determined by Buyer), in an amount equal to the Current Mark-to-Market Value of such Purchased Assets. Until such time as Buyer exercises either such remedy with respect to a Purchased Asset, Buyer may hold such Purchased Asset for its own account and retain all Income with respect thereto.

(e) The Parties agree that the Purchased Assets are of such a nature that they may decline rapidly in value, and may not have a ready or liquid market. Accordingly, Buyer shall not be required to sell more than one (1) Purchased Asset on a particular Business Day, to the same purchaser or in the same manner. Buyer may determine whether, when and in what manner a Purchased Asset shall be sold, it being agreed that both a good faith public and a good faith private sale shall be deemed to be commercially reasonable. Buyer shall give to Seller no less than ten (10) Business Days notice in advance of such a sale. Buyer shall not be required to give notice to Seller or any other Person prior to exercising any remedy in respect of an Event of Default. If no prior notice is given, Buyer shall give notice to Sellers of the remedies exercised by Buyer promptly thereafter.

(f) Sellers shall be liable to Buyer for (i) any amount by which the Repurchase Obligations due to Buyer exceed the aggregate of the net proceeds and credits referred to in the preceding clause (d), (ii) the amount of all actual out-of-pocket expenses, including reasonable legal fees and expenses, actually incurred by Buyer in connection with or as a consequence of an Event of Default, (iii) any costs and losses payable under Section 12.03, and (iv) any other actual loss, damage, cost or expense resulting from the occurrence of an Event of Default, but specifically excluding any punitive damages.

(g) Buyer shall be entitled to an injunction, an order of specific performance or other equitable relief to compel each Seller to fulfill any of its obligations as set forth in the Repurchase Documents, including this Article 10, if either Seller fails or refuses to perform its obligations as set forth herein or therein.

(h) Each Seller hereby appoints Buyer as attorney-in-fact of such Seller, effective only during the continuance of an Event of Default, for purposes of carrying out the Repurchase Documents, including executing, endorsing and recording any instruments or documents and taking any other actions that Buyer deems necessary or advisable to accomplish such purposes, which appointment is coupled with an interest and is irrevocable.

(i) Subject to any notice and grace periods expressly set forth herein, Buyer may, without prior notice to either Seller, exercise any or all of its set-off rights including those

set forth in Section 18.17. This Section 10.02(i) shall be without prejudice and in addition to any right of set-off, combination of accounts, Lien or other rights to which any Party is at any time otherwise entitled.

(j) All rights and remedies of Buyer under the Repurchase Documents, including those set forth in Section 18.17, are cumulative and not exclusive of any other rights or remedies that Buyer may have and may be exercised at any time when an Event of Default exists. Such rights and remedies may be enforced without prior judicial process or hearing. Each Seller agrees that nonjudicial remedies are consistent with the usages of the trade, are responsive to commercial necessity and are the result of a bargain at arm's-length. Each Seller hereby expressly waives any defenses such Seller might have to require Buyer to enforce its rights by judicial process or otherwise arising from the use of nonjudicial process, disposition of any or all of the Purchased Assets, or any other election of remedies.

ARTICLE 11

SECURITY INTEREST

Section 11.01 Grant. Buyer and each Seller intend that all Transactions shall be sales to Buyer of the Purchased Assets and not loans from Buyer to Sellers secured by the Purchased Assets. However, to preserve and protect Buyer's rights with respect to the Purchased Assets and under the Repurchase Documents if any Governmental Authority recharacterizes any Transaction with respect to a Purchased Asset as other than a sale, and as security for each Seller's performance of the Repurchase Obligations, each Seller hereby grants to Buyer a present Lien on and security interest in all of the right, title and interest of each Seller in, to and under (i) the Purchased Assets (which for this purpose shall be deemed to include the items described in the proviso in the definition thereof), (ii) each Interest Rate Protection Agreement with each Hedge Counterparty relating to each Purchased Asset, (iii) all of the "Pledged Collateral", as such term is defined in the Pledge and Security Agreement, (iv) the Waterfall Account, all amounts at any time on deposit therein and all Proceeds (as defined in the UCC) thereof and (v) each Mezzanine Loan assigned to Buyer pursuant to Section 3.01(j), and the transfers of the Purchased Assets to Buyer shall be deemed to constitute and confirm such grant, to secure the payment and performance of the Repurchase Obligations (including the obligation of each Seller to pay the Repurchase Price, or if the Transactions are recharacterized as loans, to repay such loans for the Repurchase Price).

Section 11.02 Effect of Grant. If any circumstance described in Section 11.01 occurs, (a) this Agreement shall also be deemed to be a security agreement as defined in the UCC, (b) Buyer shall have all of the rights and remedies provided to a secured party by Requirements of Law (including the rights and remedies of a secured party under the UCC and the right to set off any mutual debt and claim) and under any other agreement between Buyer and either Seller or between any Affiliated Hedge Counterparty and either Seller, (c) without limiting the generality of the foregoing, Buyer shall be entitled to set off the proceeds of the liquidation of the Purchased Assets against all of the Repurchase Obligations, without prejudice to Buyer's right to recover any deficiency, (d) the possession by Buyer or any of its agents, including Custodian, of the Purchased Asset Documents, the Purchased Assets and such other items of property as constitute instruments, money, negotiable documents, securities or chattel paper shall be deemed to be possession by the secured party for purposes of perfecting such security interest under the UCC and Requirements of Law, and (e) notifications to Persons (other than Buyer) holding such property, and acknowledgments, receipts or confirmations from Persons (other than

Buyer) holding such property, shall be deemed notifications to, or acknowledgments, receipts or confirmations from, securities intermediaries, bailees or agents (as applicable) of the secured party for the purpose of perfecting such security interest under the UCC and Requirements of Law. The security interest of Buyer granted herein shall be, and each Seller hereby represents and warrants to Buyer and all other Affiliated Hedge Counterparties that it is, a first priority perfected security interest. For the avoidance of doubt, (i) each Purchased Asset and each Interest Rate Protection Agreement relating to a Purchased Asset secures the Repurchase Obligations of each Seller with respect to all other Transactions and all other Purchased Assets, including any Purchased Assets that are junior in priority to the Purchased Asset in question, and (ii) if an Event of Default exists, no Purchased Asset or Interest Rate Protection Agreement relating to a Purchased Asset will be released from Buyer's Lien or transferred to any Seller until the Repurchase Obligations (other than contingent indemnification obligations) are indefeasibly paid in full. Notwithstanding the foregoing, the Repurchase Obligations shall be full recourse to each Seller.

Section 11.03 Sellers to Remain Liable. Buyer and each Seller agree that the grant of a security interest under this Article 11 shall not constitute or result in the creation or assumption by Buyer of any Retained Interest or other obligation of either Seller or any other Person in connection with any Purchased Asset, or any Interest Rate Protection Agreement whether or not Buyer exercises any right with respect thereto. Other than with respect to any Purchased Asset as to which Buyer has (i) actually assumed servicing, (ii) has terminated the related Seller's rights as Servicer and no replacement Servicer has been appointed and commenced servicing pursuant to a Servicing Agreement, or (iii) otherwise taken and/or sold or liquidated in conjunction with the exercise of remedies pursuant to Section 10.02(d), each Seller shall remain liable under the Purchased Assets, each Interest Rate Protection Agreement and Purchased Asset Documents to perform all of each of the Seller's duties and obligations thereunder to the same extent as if the Repurchase Documents had not been executed.

Section 11.04 Waiver of Certain Laws. Each Seller agrees, to the extent permitted by Requirements of Law, that neither it nor anyone claiming through or under it will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption law now or hereafter in force in any locality where any Purchased Assets may be situated in order to prevent, hinder or delay the enforcement or foreclosure of this Agreement, or the absolute sale of any of the Purchased Assets or Interest Rate Protection Agreement relating to a Purchased Asset or any part thereof, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereof, and each Seller, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may be lawful so to do, the benefit of all such laws and any and all right to have any of the properties or assets constituting the Purchased Assets or Interest Rate Protection Agreement relating to a Purchased Asset marshaled upon any such sale, and agrees that Buyer or any court having jurisdiction to foreclose the security interests granted in this Agreement may sell the Purchased Assets and each Interest Rate Protection Agreement relating to a Purchased Asset as an entirety or in such parcels as Buyer or such court may determine.

ARTICLE 12

INCREASED COSTS; CAPITAL ADEQUACY

Section 12.01 Benchmark Replacement; Market Disruption.

(a) Benchmark Replacement for LIBOR Based Transactions. Notwithstanding anything to the contrary herein or in any other Repurchase Document, with respect to any LIBOR Based Transaction, if the USD LIBOR Transition Date has occurred prior to the LIBOR Reference Time in respect of any setting of USD LIBOR for any Pricing Period of such LIBOR Based Transaction, then such LIBOR Based Transaction shall be permanently converted to being a SOFR Based Transaction as of the first day of such Pricing Period (such conversion, a "Rate Conversion") without any amendment to, or further action or consent of any other party to, this Agreement or any other Repurchase Document (such date on which the LIBOR Based Transactions are converted to SOFR Based Transactions, the "Rate Conversion Effective Date"); provided, that except as otherwise expressly specified in any Confirmation (or amended and restated Confirmation) entered into by Buyer and Sellers following the Closing Date, from and after the Rate Conversion Effective Date, the Pricing Margin (as in effect immediately prior to the effectiveness of such Rate Conversion) for each such converted Transaction shall be increased by an amount equal to the SOFR Adjustment without any amendment to, or further action or consent of any other party to, this Agreement or any other Repurchase Document.

(b) Benchmark Replacement for SOFR Based Transactions. Notwithstanding anything to the contrary herein or in any other Repurchase Document, with respect to any SOFR Based Transaction, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, as applicable), then the Benchmark Replacement will replace the then-current Benchmark (as determined pursuant to clause (B) and/or clause (C) of such definition, applicable) with respect to each affected SOFR Based Transaction for all purposes hereunder or under any Repurchase Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Repurchase Document.

(c) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement or any Rate Conversion, Buyer will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Repurchase Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of Sellers or any other party to this Agreement or any other Repurchase Document.

(d) Notices; Standards for Decisions and Determinations. Buyer will promptly notify Sellers of (i) the implementation of any Benchmark Replacement or Rate Conversion, as applicable, and (ii) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by Buyer pursuant to this Section 12.01, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from Sellers or any other party to this Agreement or any other Repurchase Document. Any notice of Rate Conversion delivered by Buyer as described in the preceding clause (i) shall specify the Applicable SOFR designated by Buyer with respect to each such converted Transaction, which designation shall be conclusive and binding on Sellers for all purposes of this Agreement.

(e) Market Disruption. Notwithstanding the foregoing, if prior to any Pricing Period, Buyer determines that, by reason of circumstances affecting the relevant market (other than a Benchmark Transition Event), adequate and reasonable means do not exist for ascertaining any applicable current Benchmark for such Pricing Period, Buyer shall give prompt notice thereof to Sellers, whereupon the Pricing Rate for such Pricing Period with respect to each

Transaction based on such Benchmark, and for all subsequent Pricing Periods for Transactions based on such Benchmark until such notice has been withdrawn by Buyer, shall be the sum of (i) an alternate benchmark rate that has been selected by Buyer, (ii) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Buyer and (iii) the applicable Pricing Margin.

Section 12.02 Illegality. If the adoption of or any change in any Requirements of Law or in the interpretation or application thereof after the date hereof shall make it unlawful for Buyer to effect or continue Transactions as contemplated by the Repurchase Documents, (a) any commitment of Buyer hereunder to enter into new Transactions shall be terminated and the Facility Termination Date shall be deemed to have occurred, (b) if required by such adoption or change, the Pricing Rate shall be the sum of (i) an alternate benchmark rate that has been selected by Buyer, (ii) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Buyer and (iii) the applicable Pricing Margin, and (c) if required by such adoption or change, the Facility Termination Date shall be deemed to have occurred. In exercising the rights and remedies under this Section 12.02, Buyer shall treat Sellers in a manner that is substantially similar to the manner it treats other similarly situated sellers in facilities with substantially similar assets.

Section 12.03 Breakfunding. Upon demand of Buyer, Sellers shall indemnify Buyer and hold Buyer harmless from any actual loss, cost or expense (including reasonable legal fees and expenses, but excluding any anticipated profit) which Buyer may sustain or incur arising from (a) the failure by Sellers to terminate any Transaction after Sellers have given a notice of termination pursuant to Section 3.05, (b) any payment to Buyer on account of the outstanding Repurchase Price, including a payment made pursuant to Section 3.05 but excluding a payment made pursuant to Section 5.02, on any day other than a Remittance Date (based on the assumption that Buyer funded its commitment with respect to the Transaction in the London Interbank Eurodollar market and using any reasonable attribution or averaging methods that Buyer deems appropriate and practical), (c) any failure by Sellers to sell Eligible Assets to Buyer after Sellers have notified Buyer of a proposed Transaction and Buyer has agreed to purchase such Eligible Assets in accordance with this Agreement, or (d) any redetermination of the Pricing Rate based on a Benchmark Replacement or Rate Conversion for any reason on a day that is not the last day of the then-current Pricing Period.

Section 12.04 Increased Costs. If the adoption of or any change in any Requirements of Law or in the interpretation or application thereof by any Governmental Authority or compliance by Buyer with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority having jurisdiction over Buyer made after the date of this Agreement shall: (a) subject Buyer to any Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of "Excluded Taxes" or (iii) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, (b) impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of Buyer, or (c) impose on Buyer (other than Taxes) any other condition; and the result of any of the preceding clauses (a), (b) and (c) is to increase the cost to Buyer, by an amount that Buyer deems to be material, of entering into, continuing or maintaining Transactions, or to reduce any amount receivable under the Repurchase Documents in respect thereof, then, in any such case, upon not less than thirty (30) days' prior written notice to Sellers, Sellers shall pay to Buyer such additional amount or amounts as reasonably necessary to fully compensate Buyer for such increased cost or reduced amount receivable; provided, however, that Buyer shall not treat

Sellers differently than other similarly situated customers in requiring the payment of such amount or amounts.

Section 12.05 Capital Adequacy. If Buyer determines that any change in a Requirement of Law or internal policy regarding capital requirements has or would have the effect of reducing the rate of return on Buyer's capital as a consequence of this Agreement or its obligations under the Transactions hereunder to a level below that which Buyer could have achieved but for such change in a Requirement of Law or internal policy (taking into consideration Buyer's policies with respect to capital adequacy), then, in any such case, upon not less than thirty (30) days prior written notice to Sellers, Sellers will promptly upon demand pay to Buyer such additional amount or amounts as will compensate Buyer for any such reduction suffered; provided, however, that Buyer shall not treat Sellers differently than other similarly situated customers in requiring the payment of such amount or amounts.

Section 12.06 Taxes.

(a) Any and all payments by or on account of any obligation of Sellers under any Repurchase Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment, then Sellers shall make (or cause to be made) such deduction or withholding and shall timely pay (or cause to be timely paid) the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by Sellers shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 12.06) Buyer receives an amount equal to the sum it would have received had no such deduction or withholding been made in respect of such Indemnified Taxes.

(b) In addition, each Seller shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Each Seller shall indemnify Buyer, within ten (10) Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 12.06) payable or paid by Buyer or required to be withheld or deducted from a payment to Buyer, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified 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 Sellers by Buyer shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Taxes by Sellers to a Governmental Authority pursuant to this Section 12.06, Sellers shall deliver to Buyer 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 Buyer.

(e) (i) If Buyer is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Repurchase Document, Buyer shall deliver to Sellers, at the time or times reasonably requested by Seller, such properly completed and executed documentation reasonably requested by Sellers as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, Buyer, if reasonably requested by Sellers, shall deliver such other documentation prescribed by applicable law or reasonably requested by Seller as will enable Seller to determine whether or not Buyer is subject to backup withholding or information reporting requirements. Notwithstanding anything to the

contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 12.06(e)(ii)(A), Section 12.06(e)(ii)(B) and Section 12.06(e)(ii)(D) below) shall not be required if in Buyer's reasonable judgment such completion, execution or submission would subject Buyer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of Buyer.

(ii) Without limiting the generality of the foregoing:

(A) if Buyer is a U.S. Person, it shall deliver to Sellers on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Sellers), executed copies of IRS Form W-9 certifying that Buyer is exempt from U.S. federal backup withholding tax;

(B) if Buyer is a Foreign Buyer, it shall, to the extent it is legally entitled to do so, deliver to Sellers (in such number of copies as shall be requested by Sellers) on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Sellers), whichever of the following is applicable:

(I) in the case of a Foreign Buyer claiming the benefits of an income tax treaty to which the United States is a party, (x) with respect to payments of interest under any Repurchase Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Repurchase Document, IRS Form W-8BEN or IRS Form W-8BEN-E (as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Buyer claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Buyer is not a "bank" within the meaning of section 881(c)(3)(A) of the Code, a "10 percent shareholder" of any Seller within the meaning of section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (as applicable); or

(IV) to the extent a Foreign Buyer is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate or IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Buyer is a partnership and one or more direct or indirect partners of such Foreign Buyer are claiming the portfolio interest exemption, such Foreign Buyer may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner;

(C) if Buyer is a Foreign Buyer, it shall, to the extent it is legally entitled to do so, deliver to Sellers (in such number of copies as shall be requested by Sellers) on or prior to the date on which Buyer becomes a Party under this Agreement (and from time to time thereafter upon the reasonable request of Sellers), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Sellers to determine the withholding or deduction required to be made; and

(D) if a payment made to Buyer under any Repurchase Document would be subject to U.S. federal withholding Tax imposed by FATCA if Buyer were to fail to comply with the applicable reporting requirements of FATCA (including those contained in section 1471(b) or 1472(b) of the Code, as applicable), Buyer shall deliver to Sellers at the time or times prescribed by law and at such time or times reasonably requested by Sellers such documentation prescribed by applicable law (including as prescribed by section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Sellers as may be necessary for Sellers to comply with their obligations under FATCA and to determine that Buyer has complied with Buyer's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include all amendments made to FATCA after the date of this Agreement.

Buyer agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Sellers in writing of its legal inability to do so.

(f) If any Party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 12.06 (including by the payment of additional amounts pursuant to this Section 12.06), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 12.06 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 12.06(f) (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 12.06(f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 12.06(f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party 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 giving rise to such refund had never been paid. This Section 12.06(f) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(g) For the avoidance of doubt, for purposes of this Section 12.06, the term "applicable law" includes FATCA.

Section 12.07 Payment and Survival of Obligations. Buyer may at any time send Sellers a notice showing the calculation of any amounts payable pursuant to this Article 12, and each Seller shall pay such amounts to Buyer within ten (10) Business Days after such Seller receives such notice. Each Party's obligations under this Article 12 shall survive any assignment of rights by, or the replacement of the Buyer, the termination of the Transactions and the repayment, satisfaction or discharge of all obligations under any Repurchase Document.

Section 12.08 Early Repurchase Option. If any of the events described in Sections 12.04 or 12.05 result in Buyer's request for additional amounts, then Sellers shall have the option to notify Buyer in writing at any time of their intent to terminate all of the Transactions and repurchase all of the Purchased Assets no later than ten (10) Business Days after such notice is given to Buyer, and such repurchase by Sellers shall be conducted pursuant to and in accordance with Section 3.04. The election by Sellers to terminate the Transactions in accordance with this Section 12.08 shall not relieve Sellers for liability with respect to any additional amounts actually incurred by Buyer prior to the actual repurchase of the Purchased Assets, except that, notwithstanding anything to the contrary contained herein or in any other Repurchase Document, there shall be no Exit Fee, prepayment fee, premium or other similar payment due in connection therewith.

ARTICLE 13

INDEMNITY AND EXPENSES

Section 13.01 Indemnity.

(a) Each Seller shall release, defend, indemnify and hold harmless Buyer, Affiliates of Buyer and its and their respective officers, directors, shareholders, partners, members, owners, employees, agents, attorneys, Affiliates and advisors (each an "Indemnified Person" and collectively the "Indemnified Persons"), on a net after-tax basis, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, fees, reasonable costs, expenses (including reasonable legal fees, charges, and disbursements of any counsel for any such Indemnified Person and expenses), penalties or fines of any kind that may be imposed on, incurred by or asserted against any such Indemnified Person (collectively, the "Indemnified Amounts") in any way relating to, arising out of or resulting from or in connection with (i) the Repurchase Documents, the Purchased Asset Documents, the Purchased Assets, the Pledged Collateral, the Transactions, any Mortgaged Property or related property, or any action taken or omitted to be taken by any Indemnified Person in connection with or under any of the foregoing, or any transaction contemplated hereby or thereby, or any amendment, supplement or modification of, or any waiver or consent under or in respect of any Repurchase Document, any Transaction, any Purchased Asset, any Purchased Asset Document, or any Pledged Collateral, (ii) any claims, actions or damages by an Underlying Obligor or lessee with respect to a Purchased Asset, (iii) any violation or alleged violation of, non–compliance with or liability under any Requirements of Law, (iv) ownership of, Liens on, security interests in or the exercise of rights or remedies under any of the items referred to in the preceding clause (i), (v) any accident, injury to or death of any person or loss of or damage to property occurring in, on or about any Mortgaged Property or on the adjoining sidewalks, curbs, parking areas, streets or ways, (vi) any use, nonuse or condition in, on or about, or possession, alteration, repair, operation, maintenance or management of, any Mortgaged Property or on the adjoining

sidewalks, curbs, parking areas, streets or ways, (vii) any failure by Seller to perform or comply with any Repurchase Document, Purchased Asset Document or Purchased Asset, (viii) performance of any labor or services or the furnishing of any materials or other property in respect of any Mortgaged Property or Purchased Asset, (ix) any claim by brokers, finders or similar Persons claiming to be entitled to a commission in connection with any lease or other transaction involving any Repurchase Document, Purchased Asset or Mortgaged Property, (x) the execution, delivery, filing or recording of any Repurchase Document, Purchased Asset Document or any memorandum of any of the foregoing, (xi) any Lien or claim arising on or against any Purchased Asset or related Mortgaged Property under any Requirements of Law or any liability asserted against Buyer or any Indemnified Person with respect thereto, (xii) (1) a past, present or future violation or alleged violation of any Environmental Laws in connection with any Mortgaged Property by any Person or other source, whether related or unrelated to Seller or any Underlying Obligor, (2) any presence of any Materials of Environmental Concern in, on, within, above, under, near, affecting or emanating from any Mortgaged Property in violation of Environmental Law, (3) the failure to timely perform any Remedial Work required under the Purchased Asset Documents or pursuant to Environmental Law, (4) any past, present or future activity by any Person or other source, whether related or unrelated to any Seller or any Underlying Obligor in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from any Mortgaged Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting any Mortgaged Property, in each case, in violation of Environmental Law, (5) any past, present or future actual Release (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting any Mortgaged Property by any Person or other source, whether related or unrelated to any Seller or any Underlying Obligor, in each case, in violation of Environmental Law, (6) the imposition, recording or filing or the threatened imposition, recording or filing of any Lien on any Mortgaged Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any Environmental Law, or (7) any misrepresentation or failure to perform any obligations pursuant to any Repurchase Document or Purchased Asset Document relating to environmental matters in any way, or (xiii) any Seller's conduct, activities, actions and/or inactions in connection with, relating to or arising out of any of the foregoing clauses of this Section 13.01, that, in each case, results from anything whatsoever other than any Indemnified Person's gross negligence or willful misconduct, as determined by a court of competent jurisdiction pursuant to a final, non-appealable judgment. Notwithstanding the foregoing, Sellers shall have no liability to any Indemnified Person under clauses (v), (vi), (viii) or (xii) of this Section 13.01 for any claims arising as a result of activities or events which occur at any time more than six (6) months after Buyer (or one of its Affiliates) takes title to the related Mortgaged Property. In any suit, proceeding or action brought by an Indemnified Person in connection with any Purchased Asset for any sum owing thereunder, or to enforce any provisions of any Purchased Asset, each Seller shall defend, indemnify and hold such Indemnified Person harmless from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim, recoupment or reduction of liability whatsoever of the account debtor or Underlying Obligor arising out of a breach by any Seller of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of such account debtor or Underlying Obligor from any Seller. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.01 applies,

such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Seller, an Indemnified Person or any other Person or any Indemnified Person is otherwise a party thereto and whether or not any Transaction is entered into. This Section 13.01(a) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(b) If for any reason the indemnification provided in this Section 13.01 is unavailable to the Indemnified Person or is insufficient to hold an Indemnified Person harmless, even though such Indemnified Person is entitled to indemnification under the express terms thereof, then the applicable Seller shall contribute to the amount paid or payable by such Indemnified Person as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative benefits received by such Indemnified Person on the one hand and such Seller on the other hand, the relative fault of such Indemnified Person, and any other relevant equitable considerations.

(c) An Indemnified Person may at any time send Sellers a notice showing the calculation of Indemnified Amounts, and Sellers shall pay such Indemnified Amounts to such Indemnified Person within ten (10) Business Days after Sellers receive such notice. The obligations of Sellers under this Section 13.01 shall apply (without duplication) to Eligible Assignees and Participants and survive the termination of this Agreement.

Section 13.02 Expenses. Each Seller shall promptly on demand pay to or as directed by Buyer all reasonable third-party out-of-pocket costs and expenses (including legal, accounting and advisory fees and expenses) incurred by Buyer in connection with (a) the development, evaluation, preparation, negotiation, execution, consummation, delivery and administration of, and any amendment, supplement or modification to, or extension, renewal or waiver of, the Repurchase Documents and the Transactions, (b) any Asset or Purchased Asset, including due diligence, inspection, testing, review, recording, registration, travel custody, care, insurance or preservation, (c) the enforcement of the Repurchase Documents or the payment or performance by any Seller of any Repurchase Obligations, (d) any actual or attempted sale, exchange, enforcement, collection, compromise or settlement relating to the Purchased Assets, and (e) the internally allocated costs of Buyer of any Appraisal ordered in connection with an Asset proposed for purchase under Section 3.01 but subsequently rejected by Buyer for any reason.

ARTICLE 14

INTENT

Section 14.01 Safe Harbor Treatment. The Parties intend (a) for each Transaction to qualify for the safe harbor treatment provided by the Bankruptcy Code and for Buyer to be entitled to all of the rights, benefits and protections afforded to Persons under the Bankruptcy Code with respect to a “repurchase agreement” as defined in Section 101(47) of the Bankruptcy Code (to the extent that a Transaction has a maturity date of less than one (1) year) and a “securities contract” as defined in Section 741(7) of the Bankruptcy Code and that payments and transfers under this Agreement are deemed “margin payments” and “settlement payments” as defined in Section 101 of the Bankruptcy Code and constitute transfers made by, to or for the benefit of a financial institution, financial participant or repo participant within the meaning of Section 546(e) or 546(f) of the Bankruptcy Code, (b) for the grant of a security

interest set forth in Article 11 to also be a "securities contract" as defined in Section 741(7)(A)(xi) of the Bankruptcy Code and a "repurchase agreement" as that term is defined in Section 101(47)(A)(v) of the Bankruptcy Code; (c) for each of the Guarantee Agreement and the Pledge and Security Agreement to constitute a security agreement or arrangement or other credit enhancement within the meaning of Section 101 of the Code related to a "securities contract" as defined in Section 741(7)(A)(xi) of the Bankruptcy Code and, to the extent that the Guarantee Agreement and the Pledge and Security Agreement relate to a Transaction that has a maturity date of less than one (1) year, a "repurchase agreement" as that term is defined in Section 101(47)(A)(v) of the Bankruptcy Code; and (d) that Buyer (for so long as Buyer is a "financial institution," "financial participant," "repo participant," "master netting participant" or other entity listed in Section 555, 559, 561, 362(b)(6), 362(b)(7) or 362(b)(27) of the Bankruptcy Code) shall be entitled to the "safe harbor" benefits and protections afforded under the Bankruptcy Code with respect to a "repurchase agreement," "securities contract" and a "master netting agreement," including (x) the rights, set forth in Article 10 and in Sections 555, 559 and 561 of the Bankruptcy Code, to liquidate the Purchased Assets and terminate this Agreement, and (y) the right to offset or net out as set forth in Article 10 and Section 18.17 and in Sections 362(b)(6), 362(b)(7), 362(b)(27), 362(o) and 546 of the Bankruptcy Code.

Section 14.02 Liquidation. The Parties intend that Buyer's right to liquidate Purchased Assets delivered to it in connection with Transactions hereunder or to exercise any setoff and netting rights under Section 18.17 or any other remedies pursuant to Articles 10 and 11 and as otherwise provided in the Repurchase Documents is a contractual right to liquidate such Transactions as described in Sections 555, 559 and 561 of the Bankruptcy Code.

Section 14.03 Qualified Financial Contract. The Parties intend that if a Party is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

Section 14.04 Netting Contract. The Parties acknowledge and agree that this Agreement constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation," respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

Section 14.05 Master Netting Agreement. The Parties intend that this Agreement, the Guarantee Agreement and the Pledge and Security Agreement constitutes a "master netting agreement" as defined in Section 101(38A) of the Bankruptcy Code.

ARTICLE 15

DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS

The Parties acknowledge that they have been advised and understand that:

(a) if one of the Parties is a broker or dealer registered with the Securities and Exchange Commission under Section 14 of the Exchange Act, the Securities Investor Protection

Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 do not protect the other Party with respect to any Transaction;

(b) if one of the Parties is a government securities broker or a government securities dealer registered with the Securities and Exchange Commission under Section 14C of the Exchange Act, the Securities Investor Protection Act of 1970 will not provide protection to the other Party with respect to any Transaction;

(c) if one of the Parties is a financial institution, funds held by or on behalf of the financial institution pursuant to any Transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable; and

(d) if one of the Parties is an "insured depository institution" as that term is defined in Section 1813(c)(2) of Title 12 of the United States Code, funds held by or on behalf of the financial institution pursuant to any Transaction are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund or the Bank Insurance Fund, as applicable.

ARTICLE 16

NO RELIANCE

Each Party acknowledges, represents and warrants to the other Party that, in connection with the negotiation of, entering into, and performance under, the Repurchase Documents and each Transaction:

(a) It is not relying (for purposes of making any investment decision or otherwise) on any advice, counsel or representations (whether written or oral) of the other Party, other than the representations expressly set forth in the Repurchase Documents;

(b) It has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent that it has deemed necessary, and it has made its own investment, hedging and trading decisions (including decisions regarding the suitability of any Transaction) based on its own judgment and on any advice from such advisors as it has deemed necessary and not on any view expressed by the other Party;

(c) It is a sophisticated and informed Person that has a full understanding of all the terms, conditions and risks (economic and otherwise) of the Repurchase Documents and each Transaction and is capable of assuming and willing to assume (financially and otherwise) those risks;

(d) It is entering into the Repurchase Documents and each Transaction for the purposes of managing its borrowings or investments or hedging its underlying assets or liabilities and not for purposes of speculation;

(e) It is not acting as a fiduciary or financial, investment or commodity trading advisor for the other Party and has not given the other Party (directly or indirectly through any other Person) any assurance, guaranty or representation whatsoever as to the merits (either legal, regulatory, tax, business, investment, financial accounting or otherwise) of the Repurchase Documents or any Transaction; and

(f) No partnership or joint venture exists or will exist as a result of the Transactions or entering into and performing the Repurchase Documents.

ARTICLE 17

SERVICING

This Article 17 shall apply to all Purchased Assets.

Section 17.01 Servicing Rights. Buyer is the owner of all Servicing Rights. Without limiting the generality of the foregoing, Buyer shall have the right to hire or otherwise engage any Person to service or sub-service all or part of the Purchased Assets, provided, however, that if any other Person other than Buyer is to act as Interim Servicer at any time prior to a Default or Event of Default, Sellers may select a successor servicer to Buyer, so long as such successor servicer is reasonably acceptable to Buyer, and such Person shall have only such servicing obligations with respect to such Purchased Assets as are designated by Buyer. Notwithstanding the preceding sentence, Buyer agrees with Sellers as follows with respect to the servicing of the Purchased Assets:

(a) Interim Servicer shall service the Purchased Assets on behalf of Buyer in accordance with Accepted Servicing Practices. So long as Interim Servicer is an Affiliate of Sellers, Interim Servicer shall service using its customary servicing platform and procedures, subject to the terms of the Servicing Agreement and the related cash management agreement, each of which shall be mutually acceptable to Buyer, Sellers and Interim Servicer.

(b) Prior to or contemporaneously with the execution of the Repurchase Agreement on the Closing Date, Buyer will enter into, and cause Interim Servicer to enter into, the Servicing Agreement and Sellers will enter into, the Servicing Agreement. The Servicing Agreement shall automatically terminate on the last day of the first full calendar month following the Closing Date, unless terminated sooner pursuant to Section 17.04. To the extent Buyer desires to renew the appointment of Interim Servicer, in connection with its delivery of a statement of Price Differential due on the following Remittance Date, Buyer shall deliver notice to Sellers and Interim Servicer of its intent to renew the appointment of Interim Servicer for an additional thirty-day period, provided, if Buyer fails to deliver such notice, Sellers shall have the right to request that Buyer deliver such notice on or before the Remittance Date. In the event Buyer fails to renew Interim Servicer's appointment as Interim Servicer, Buyer shall appoint a successor servicer (which successor servicer shall be Wells Fargo Bank, N.A. or such other successor to whom, so long as no default or Event of Default has occurred and is continuing, Sellers have provided their consent, such consent not to be unreasonably withheld, conditioned or delayed). Any such successor servicer shall be entitled to fees and other servicing compensation as agreed by such successor servicer, Buyer and, so long as no default or Event of Default has occurred and is continuing, Sellers. During such time as the appointment of Interim Servicer has expired and prior to the appointment of any successor servicer, Interim Servicer shall continue to service the Purchased Assets in accordance with the terms of the Servicing Agreement and shall cooperate with the transition of servicing to the successor servicer.

(c) Each Seller shall provide all information regarding Interim Servicer requested by Buyer and otherwise cooperate in connection with Buyer's due diligence regarding Interim Servicer, which due diligence with respect to information provided prior to the Closing Date shall be completed by Buyer on or before the Closing Date. Seller shall cause Interim Servicer to comply with all of Interim Servicer's obligations under the Servicing Agreement. Neither Seller nor Interim Servicer may assign its rights or obligations under the Servicing Agreement without the prior written consent of Buyer.

(d) The Servicing Agreement shall grant Sellers the right, so long as no Default or Event of Default has occurred and is continuing, to direct Interim Servicer with

respect to modifications, waivers, consents and other actions related to the Purchased Assets; provided, however, that Sellers shall not and shall not direct Interim Servicer to (i) make any Material Modification without the prior written consent of Buyer (such consent to be given or withheld in Buyer's commercially reasonable discretion), or (ii) take any action which would result in a violation of the obligations of any Person under the Servicing Agreement, the Repurchase Agreement or any other Repurchase Document, or which would otherwise be inconsistent with the rights of Buyer under the Repurchase Documents. Buyer, as owner of the Purchased Assets, shall own all related servicing and voting rights and, as owner, shall act as Interim Servicer with respect to the Purchased Assets, subject to an interim revocable option from Buyer in favor of Sellers to direct Interim Servicer, so long as no Default or Event of Default has occurred and is continuing; provided, however, that Sellers cannot give any direction or take any action that could materially adversely affect the value or collectability of any amounts due with respect to the Purchased Assets without the consent of Buyer, such consent to be given or withheld by Buyers. Such revocable option is not evidence of any ownership or other interest or right of any Seller in any Purchased Asset.

(e) The servicing fee payable to Interim Servicer shall be payable as a servicing fee in accordance with the Repurchase Agreement and the Servicing Agreement, including without limitation pursuant to priority first of Section 5.02 of the Repurchase Agreement or priority first of Section 5.03 of the Repurchase Agreement, as applicable. Each Seller shall be solely responsible for the payment, from such Seller's own funds, of all fees and expenses of the Interim Servicer, which shall not be payable as a servicing fee by Interim Servicer or otherwise under the Repurchase Agreement or the Servicing Agreement.

Section 17.02 Accounts Related to Purchased Assets. All accounts directly related to the Purchased Assets shall be maintained at Wells Fargo Bank, N.A. acceptable to Buyer, and each Seller shall cause the Underlying Obligor to enter into the contractual arrangements with Buyer and such Seller that are necessary in order to create a perfected security interest in favor of Buyer in all such accounts, including, without limitation, an Account Control Agreement in form and substance reasonably acceptable to Buyer.

Section 17.03 Servicing Reports. Each Seller shall deliver to deliver to Buyer and Custodian a monthly remittance report on or before the third Business Day immediately preceding each monthly Remittance Date containing servicing information, including those fields reasonably requested by Buyer from time to time, on an asset by asset basis and in the aggregate, with respect to the Purchased Assets for the month (or any portion thereof) before the date of such report.

Section 17.04 Event of Default. If an Event of Default or an Interim Servicer Event of Default exists, Buyer shall have the right at any time thereafter to terminate the Servicing Agreement and transfer the servicing of the Purchased Assets to Buyer or its designee, at no cost or expense to Buyer, it being agreed that each Seller will pay any fees and expenses required to terminate such Servicing Agreement and transfer servicing to Buyer or its designee in such event.

ARTICLE 18

MISCELLANEOUS

Section 18.01 Governing Law. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, THE RELATIONSHIP OF THE PARTIES TO THIS AGREEMENT, AND/OR THE INTERPRETATION AND ENFORCEMENT OF THE RIGHTS AND DUTIES OF THE PARTIES TO THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN

ACCORDANCE WITH THE INTERNAL LAWS AND DECISIONS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CHOICE OF LAW RULES THEREOF OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW. THE PARTIES HERETO INTEND THAT THE PROVISIONS OF SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW SHALL APPLY TO THIS AGREEMENT.

Section 18.02 Submission to Jurisdiction; Service of Process. Each Party irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan and of the United States District Court of the Southern District of New York, or in any court with jurisdiction that is located in Delaware, California or the state where the related underlying Mortgaged Property is located, and any appellate court from any thereof, in any action or proceeding arising out of or relating to the Repurchase Documents, or for recognition or enforcement of any judgment, and each Party irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such State court or, to the fullest extent permitted by applicable law, in such Federal court. Each Party 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 the other Repurchase Documents shall affect any right that Buyer may otherwise have to bring any action or proceeding arising out of or relating to the Repurchase Documents against any Seller or its properties in the courts of any jurisdiction. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by Requirements of 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 the Repurchase Documents in any court referred to above, and the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. Each Party irrevocably consents to service of process in the manner provided for notices in Section 18.12. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

Section 18.03 IMPORTANT WAIVERS.

(a) EACH SELLER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO ASSERT A COUNTERCLAIM, OTHER THAN A COMPULSORY COUNTERCLAIM, IN ANY ACTION OR PROCEEDING BROUGHT AGAINST IT BY BUYER OR ANY INDEMNIFIED PERSON.

(b) TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE BETWEEN THEM, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, CONNECTED WITH OR RELATED TO THE REPURCHASE DOCUMENTS, THE PURCHASED ASSETS, THE PLEDGED COLLATERAL, THE TRANSACTIONS, ANY DEALINGS OR COURSE OF CONDUCT BETWEEN THEM, OR ANY STATEMENTS (WRITTEN OR ORAL) OR OTHER ACTIONS OF EITHER PARTY. NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. INSTEAD, ANY SUCH DISPUTE RESOLVED IN COURT WILL BE RESOLVED IN A BENCH TRIAL WITHOUT A JURY.

(c) TO THE EXTENT PERMITTED BY REQUIREMENTS OF LAW, EACH SELLER HEREBY WAIVES ANY RIGHT TO CLAIM OR RECOVER IN ANY LITIGATION WHATSOEVER INVOLVING ANY INDEMNIFIED PERSON, ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES

OF ANY KIND OR NATURE WHATSOEVER OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES, WHETHER SUCH WAIVED DAMAGES ARE BASED ON STATUTE, CONTRACT, TORT, COMMON LAW OR ANY OTHER LEGAL THEORY, WHETHER THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN AND REGARDLESS OF THE FORM OF THE CLAIM OF ACTION AND BOTH SELLERS AND BUYER WAIVE ANY RIGHTS THEY MAY HAVE TO RECOVER PUNITIVE DAMAGES AGAINST THE OTHER IN ANY SUCH PROCEEDING. NO INDEMNIFIED PERSON 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 ANY REPURCHASE DOCUMENT OR THE TRANSACTIONS.

(d) EACH PARTY CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY OR AN INDEMNIFIED PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY OR AN INDEMNIFIED PERSON WOULD NOT SEEK TO ENFORCE ANY OF THE WAIVERS IN THIS SECTION 18.03 IN THE EVENT OF LITIGATION OR OTHER CIRCUMSTANCES. THE SCOPE OF SUCH WAIVERS IS INTENDED TO BE ALL–ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THE REPURCHASE DOCUMENTS, REGARDLESS OF THEIR LEGAL THEORY.

(e) EACH PARTY ACKNOWLEDGES THAT THE WAIVERS IN THIS SECTION 18.03 ARE A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT SUCH PARTY HAS ALREADY RELIED ON SUCH WAIVERS IN ENTERING INTO THE REPURCHASE DOCUMENTS, AND THAT SUCH PARTY WILL CONTINUE TO RELY ON SUCH WAIVERS IN THEIR RELATED FUTURE DEALINGS UNDER THE REPURCHASE DOCUMENTS. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS REVIEWED SUCH WAIVERS WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL AND OTHER RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

(f) THE WAIVERS IN THIS SECTION 18.03 ARE IRREVOCABLE, MEANING THAT THEY MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND SHALL APPLY TO ANY AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO ANY OF THE REPURCHASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(g) THE PROVISIONS OF THIS SECTION 18.03 SHALL SURVIVE TERMINATION OF THE REPURCHASE DOCUMENTS AND THE INDEFEASIBLE PAYMENT IN FULL OF THE REPURCHASE OBLIGATIONS.

Section 18.04 Integration. The Repurchase Documents supersede and integrate all previous negotiations, contracts, agreements and understandings (whether written or oral) between the Parties relating to a sale and repurchase of Purchased Assets and the other matters addressed by the Repurchase Documents, and contain the entire final agreement of the Parties relating to the subject matter thereof.

Section 18.05 Single Agreement. Each Seller agrees that (a) each Transaction is in consideration of and in reliance on the fact that all Transactions constitute a single business

and contractual relationship, and that each Transaction has been entered into in consideration of the other Transactions, (b) a default by it in the payment or performance of any its obligations under a Transaction shall constitute a default by it with respect to all Transactions, (c) Buyer may set off claims and apply properties and assets held by or on behalf of Buyer with respect to any Transaction against the Repurchase Obligations owing to Buyer with respect to other Transactions, and (d) payments, deliveries and other transfers made by or on behalf of any Seller with respect to any Transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers with respect to all Transactions, and the obligations of such Seller to make any such payments, deliveries and other transfers may be applied against each other and netted.

Section 18.06 Use of Employee Plan Assets. No assets of an employee benefit plan subject to any provision of ERISA shall be used by any Party in a Transaction.

Section 18.07 Survival and Benefit of Sellers' Agreements. The Repurchase Documents and all Transactions shall be binding on and shall inure to the benefit of the Parties and their successors and permitted assigns. All of each Seller's representations, warranties, agreements and indemnities in the Repurchase Documents shall survive the termination of the Repurchase Documents and the payment in full of the Repurchase Obligations, and shall apply to and benefit all Indemnified Persons, Buyer and its successors and assigns, Eligible Assignees and Participants. No other Person shall be entitled to any benefit, right, power, remedy or claim under the Repurchase Documents.

Section 18.08 Assignments and Participations.

(a) Each Seller shall not sell, assign or transfer any of its rights or the Repurchase Obligations or delegate its duties under this Agreement or any other Repurchase Document without the prior written consent of Buyer, and any attempt by a Seller to do so without such consent shall be null and void. Buyer may at any time, without the consent of or notice to any Seller, sell participations to any Person (other than a natural person or Seller or Guarantor) (a "Participant") in all or any portion of Buyer's rights and/or obligations under the Repurchase Documents; provided, that (i) Buyer's obligations and each Seller's rights and obligations under the Repurchase Documents shall remain unchanged, (ii) Buyer shall remain solely responsible to Sellers for the performance of such obligations, and (iii) Sellers shall continue to deal solely and directly with Buyer in connection with Buyer's rights and obligations under the Repurchase Documents. No Participant shall have any right to approve any amendment, waiver or consent with respect to any Repurchase Document, except to the extent that the Repurchase Price or Price Differential of any Purchased Asset would be reduced or the Repurchase Date of any Purchased Asset would be postponed. Each Participant shall be entitled to the benefits of Article 12 to the same extent as if it had acquired its interest by assignment pursuant to Section 18.08(b); so long as such Participant agrees to be subject to Section 12.06 as if it were an Eligible Assignee. To the extent permitted by Requirements of Law, each Participant shall be entitled to the benefits of Sections 10.02(j) and 18.17 to the same extent as if it had acquired its interest by assignment pursuant to Section 18.08(b).

(b) Buyer may at any time, without consent of any Seller or Guarantor but upon notice to Sellers, sell and assign to any Eligible Assignee all or any portion of all of the rights and obligations of Buyer under the Repurchase Documents and, so long as no Default or Event of Default has occurred and is continuing, Buyer shall act as agent for the Eligible Assignee. Each such assignment shall be made pursuant to an Assignment and Acceptance substantially in the form of Exhibit F (an "Assignment and Acceptance"). From and after the effective date of such Assignment and Acceptance, (i) such Eligible Assignee shall be a Party and, to the extent provided therein, have the rights and obligations of Buyer under the Repurchase Documents with respect to the percentage and amount of the Repurchase Price

allocated to it, (ii) Buyer shall, to the extent provided therein, if such Assignment and Acceptance is executed after an Event of Default, be released from such obligations (and, in the case of an Assignment and Acceptance covering all or the remaining portion of Buyer's obligations under this Agreement, Buyer shall cease to be a Party hereto), provided that (A) at all times prior to an Event of Default, Buyer shall remain solely responsible to Sellers for the performance of such obligations and (B) Buyer shall remain solely responsible for all claims which are based on events which occurred prior to the date of such Assignment and Acceptance, (iii) at all times prior to an Event of Default, Sellers shall continue to deal solely and directly with Buyer in connection with Buyer's rights and obligations under the Repurchase Documents, (iv) the obligations of Buyer shall be deemed to be so reduced, and (v) Buyer will give prompt written notice thereof (including identification of the Eligible Assignee and the amount of Repurchase Price allocated to it) to each Party (but Buyer shall not have any liability for any failure to timely provide such notice). Any sale or assignment by Buyer of rights or obligations under the Repurchase Documents that does not comply with this Section 18.08(b) shall be treated for purposes of the Repurchase Documents as a sale by such Buyer of a participation in such rights and obligations in accordance with Section 18.08(a). Notwithstanding the foregoing, so long as no Default or Event of Default has occurred and is continuing, Buyer shall not assign, syndicate and/or participate any of its rights to any competitor of a Seller described on the attached Exhibit I hereto.

(c) Each Seller shall cooperate with Buyer in connection with any such sale and assignment of participations or assignments and shall enter into such restatements of, and amendments, supplements and other modifications to, the Repurchase Documents to give effect to any such sale or assignment; provided, that none of the foregoing shall change any economic or other material term of the Repurchase Documents in a manner adverse to a Seller without the consent of such Seller.

(d) Buyer shall have the right to partially or completely syndicate and or all of its rights under the Agreement and the other Repurchase Documents to any Eligible Assignee.

(e) Each Seller, shall maintain a copy of each Assignment and Acceptance and a register for the recordation of the names and addresses of the Eligible Assignees that become Parties hereto and, with respect to each such Eligible Assignee, the aggregate assigned Purchase Price and applicable Price Differential (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Parties shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Buyer for all purposes of this Agreement. The Register shall be available for inspection by the Parties at any reasonable time and from time to time upon reasonable prior notice.

(f) If Buyer sells a participation of its rights hereunder, it shall, acting solely for this purpose as a non-fiduciary agent of the applicable Seller, maintain a register on which it enters the name and address of each Participant and, with respect to each such Participant, the aggregate participated Purchase Price and applicable Price Differential, and any other interest in any obligations under the Repurchase Documents (the "Participant Register"); provided that no Party 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 obligations under any Repurchase Document) to any Person except to the extent that such disclosure is necessary to establish that such 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 the participating Party shall treat each Person whose name is recorded in the Participant Register as the owner of the applicable participation for all purposes of this Agreement notwithstanding any notice to the contrary.

Section 18.09 Ownership and Hypothecation of Purchased Assets. Title to all Purchased Assets shall pass to and vest in Buyer on the applicable Purchase Dates and, subject to the terms of the Repurchase Documents, Buyer or its designee shall have free and unrestricted use of all Purchased Assets and be entitled to exercise all rights, privileges and options relating to the Purchased Assets as the owner thereof, including rights of subscription, conversion, exchange, substitution, voting, consent and approval, and to direct any servicer or trustee. Buyer or its designee may, at any time, without the consent of Sellers, Pledgor or Guarantor, engage in repurchase transactions with the Purchased Assets or otherwise sell, pledge, repledge, transfer, hypothecate, or rehypothecate the Purchased Assets, all on terms that Buyer may determine, so long as Buyer provides the applicable Seller with advance notice of them; provided, that no such transaction shall affect the obligations of Buyer to transfer the Purchased Assets to such Seller on the applicable Repurchase Dates free and clear of any pledge, Lien, security interest, encumbrance, charge or other adverse claim. In the event Buyer engages in a repurchase transaction with any of the Purchased Assets or otherwise pledges or hypothecates any of the Purchased Assets, Buyer shall have the right to assign to Buyer's counterparty any of the applicable representations or warranties herein and the remedies for breach thereof, as they relate to the Purchased Assets that are subject to such repurchase transaction.

Section 18.10 Confidentiality. All information regarding the terms set forth in any of the Repurchase Documents or the Transactions shall be kept confidential and shall not be disclosed by either Party to any Person except (a) to the Affiliates of such Party or its or their respective directors, officers, employees, agents, advisors, attorneys, accountants and other representatives who are informed of the confidential nature of such information and instructed to keep it confidential, (b) to the extent requested by any regulatory authority, stock exchange, government department or agency, or required by Requirements of Law or necessary or advisable in connection with any public company filing requirements under federal securities laws, (c) to the extent required to be included in the financial statements of either Party or an Affiliate thereof, (d) to the extent required to exercise any rights or remedies under the Repurchase Documents, Purchased Assets or Mortgaged Properties, (e) to the extent required to consummate and administer a Transaction, (f) in the event any Party is legally compelled to make pursuant to deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process by court order of a court of competent jurisdiction, and (g) to any actual or prospective Participant, Eligible Assignee or Hedge Counterparty that agrees to comply with this Section 18.10, and (h) in connection with a public market transaction of Guarantor, but only to the extent such disclosure is legally required pursuant to an applicable Requirement of Law; provided, that, except with respect to the disclosures by Buyer under clause (g) of this Section 18.10, no such disclosure made with respect to any Repurchase Document shall include a copy of such Repurchase Document to the extent that a summary would suffice, but if it is necessary for a copy of any Repurchase Document to be disclosed, all pricing and other economic terms set forth therein shall be redacted before disclosure.

Section 18.11 No Implied Waivers; Amendments. No failure on the part of Buyer to exercise, or delay in exercising, any right or remedy under the Repurchase Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy thereunder preclude any further exercise thereof or the exercise of any other right. The rights and remedies in the Repurchase Documents are cumulative and not exclusive of any rights and remedies provided by law. Application of the Default Rate after an Event of Default shall not be deemed to constitute a waiver of any Event of Default or Buyer's rights and remedies with respect thereto, or a consent to any extension of time for the payment or performance of any obligation with respect to which the Default Rate is applied. Except as otherwise expressly provided in the Repurchase Documents, no amendment, waiver or other modification of any

provision of the Repurchase Documents shall be effective without the signed agreement of the applicable Seller and Buyer. Any waiver or consent under the Repurchase Documents shall be effective only if it is in writing and only in the specific instance and for the specific purpose for which given.

Section 18.12 Notices and Other Communications. Unless otherwise provided in this Agreement, all notices, consents, approvals, requests and other communications required or permitted to be given to a Party hereunder shall be in writing and sent prepaid by hand delivery, by certified or registered mail, by expedited commercial or postal delivery service, or by facsimile or email if also sent by one of the foregoing, to the address for such Party specified in Annex I or such other address as such Party shall specify from time to time in a notice to the other Party. Any of the foregoing communications shall be effective when delivered, if delivered prior to 4:00 PM recipient local time on a Business Day; otherwise, each such communication shall be effective on the first Business Day following the date of such delivery. A Party receiving a notice that does not comply with the technical requirements of this Section 18.12 may elect to waive any deficiencies and treat the notice as having been properly given.

Section 18.13 Counterparts; Electronic Transmission. Any Repurchase Document may be executed in separate counterparts, each of which when so executed and delivered shall be deemed to be an original, but all of which shall together constitute but one and the same instrument. The Parties agree that this Agreement, any documents to be delivered pursuant to this Agreement, any other Repurchase Document and any notices hereunder may be transmitted between them by email and/or facsimile. The Parties intend that faxed signatures and electronically imaged signatures such as .pdf files shall constitute original signatures and are binding on all parties.

Section 18.14 No Personal Liability. No administrator, incorporator, Affiliate, owner, member, partner, stockholder, officer, director, employee, agent or attorney of Buyer, any Indemnified Person, any Seller, Pledgor or Guarantor, as such, shall be subject to any recourse or personal liability under or with respect to any obligation of Buyer, any Seller, Pledgor or Guarantor under the Repurchase Documents, whether by the enforcement of any assessment, by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed that the obligations of Buyer, any Seller, Pledgor or Guarantor under the Repurchase Documents are solely their respective corporate, limited liability company or partnership obligations, as applicable, and that any such recourse or personal liability is hereby expressly waived. This Section 18.14 shall survive the termination of the Repurchase Documents and the repayment in full of the Repurchase Obligations.

Section 18.15 Protection of Buyer's Interests in the Purchased Assets; Further Assurances.

(a) Each Seller shall take such actions as necessary to cause the Repurchase Documents and/or all financing statements and continuation statements and any other necessary documents covering the right, title and interest of Buyer to the Purchased Assets to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, all in such manner and in such places as may be required by law fully to preserve and protect such right, title and interest. Each Seller shall deliver to Buyer file–stamped copies of, or filing receipts for, any document recorded, registered or filed as provided above, as soon as available following such recording, registration or filing. Each Seller shall execute any and all documents reasonably required to fulfill the intent of this Section 18.15.

(b) Each Seller will promptly at its expense execute and deliver such instruments and documents and take such other actions as Buyer may reasonably request from time to time in order to perfect, protect, evidence, exercise and enforce Buyer's rights and remedies under and with respect to the Repurchase Documents, the Transactions and the Purchased Assets. Sellers and Guarantor shall, promptly upon Buyer's request, deliver documentation in form and substance satisfactory to Buyer which Buyer deems necessary or desirable to evidence compliance with all applicable "know your customer" due diligence checks.

(c) If either Seller fails to perform any of its Repurchase Obligations, then Buyer may (but shall not be required to) perform or cause to be performed such Repurchase Obligation, and the costs and expenses incurred by Buyer in connection therewith shall be payable by Sellers. Without limiting the generality of the foregoing, each Seller authorizes Buyer, at the option of Buyer and the expense of such Seller, at any time and from time to time, to take all actions and pay all amounts that Buyer deems necessary or appropriate to protect, enforce, preserve, insure, service, administer, manage, perform, maintain, safeguard, collect or realize on the Purchased Assets and Buyer's Liens and interests therein or thereon and to give effect to the intent of the Repurchase Documents. No Default or Event of Default shall be cured by the payment or performance of any Repurchase Obligation by Buyer on behalf of a Seller. Buyer may make any such payment in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax Lien, title or claim except to the extent such payment is being contested in good faith by a Seller in appropriate proceedings and against which adequate reserves are being maintained in accordance with GAAP. Buyer shall endeavor to give Sellers notice prior to commencing any action under this Section 18.15(c), but the failure to do so shall have no adverse effect of any kind on Buyer.

(d) Without limiting the generality of the foregoing, each Seller will no earlier than six (6) months or later than three (3) months before the fifth (5th) anniversary of the date of filing of each UCC financing statement filed in connection with to any Repurchase Document or any Transaction, (i) deliver and file or cause to be filed an appropriate continuation statement with respect to such financing statement (provided that Buyer may elect to file such continuation statement), and (ii) if requested by Buyer, deliver or cause to be delivered to Buyer an opinion of counsel, in form and substance reasonably satisfactory to Buyer, confirming and updating the security interest opinion delivered pursuant to Section 6.01(a) with respect to perfection and otherwise to the effect that the security interests hereunder continue to be enforceable and perfected security interests, subject to no other Liens of record except as expressly permitted hereunder, which opinion may contain usual and customary assumptions, limitations and exceptions.

(e) Except as provided in the Repurchase Documents, the sole duty of Buyer, Custodian or any other designee or agent of Buyer with respect to the Purchased Assets shall be to use reasonable care in the custody, use, operation and preservation of the Purchased Assets in its possession or control. Buyer shall incur no liability to any Seller or any other Person for any act of Governmental Authority, act of God or other destruction in whole or in part or negligence or wrongful act of custodians or agents selected by Buyer with reasonable care, or Buyer's failure to provide adequate protection or insurance for the Purchased Assets. Buyer shall have no obligation to take any action to preserve any rights of any Seller in any Purchased Asset against prior parties, and each Seller hereby agrees to take such action. Buyer shall have no obligation to realize upon any Purchased Asset except through proper application of any distributions with respect to the Purchased Assets made directly to Buyer or its agent(s). So long as Buyer and Custodian shall act in good faith in their handling of the Purchased Assets, each

Seller waives or is deemed to have waived the defense of impairment of the Purchased Assets by Buyer and Custodian.

(f) At Buyer's election (at Buyer's sole cost and expense) and at any time during the term of this Agreement, Buyer may complete and record any or all of the Blank Assignment Documents as further evidence of Buyer's ownership interest in the related Purchased Assets.

Section 18.16 Default Rate. To the extent permitted by Requirements of Law, each Seller shall pay interest at the Default Rate on the amount of all Repurchase Obligations (other than payments of Price Differential calculated at the Default Rate) not paid when due under the Repurchase Documents until such Repurchase Obligations are paid or satisfied in full.

Section 18.17 Set-off. In addition to any rights now or hereafter granted under the Repurchase Documents, Requirements of Law or otherwise, each Seller hereby grants to Buyer and each Indemnified Person, to secure repayment of the Repurchase Obligations, a right of set-off upon any and all of the following: monies, securities, collateral or other property of each Seller and any proceeds from the foregoing, now or hereafter held or received by Buyer, any Affiliate of Buyer or any Indemnified Person, for the account of any Seller, whether for safekeeping, custody, pledge, transmission, collection or otherwise, and also upon any and all deposits (general, specified, special, time, demand, provisional or final) and credits, claims or Indebtedness of a Seller at any time existing, and any obligation owed by Buyer or any Affiliate of Buyer to a Seller and to set–off against any Repurchase Obligations or Indebtedness owed by any Seller and any Indebtedness owed by Buyer or any Affiliate of Buyer to Seller, in each case whether direct or indirect, absolute or contingent, matured or unmatured, whether or not arising under the Repurchase Documents and irrespective of the currency, place of payment or booking office of the amount or obligation and in each case at any time held or owing by Buyer, any Affiliate of Buyer or any Indemnified Person to or for the credit of a Seller, without prejudice to Buyer's right to recover any deficiency. Each of Buyer, each Affiliate of Buyer and each Indemnified Person is hereby authorized upon any amount becoming due and payable by a Seller to Buyer or any Indemnified Person under the Repurchase Documents, the Repurchase Obligations or otherwise or upon the occurrence of an Event of Default, without notice to any Seller, any such notice being expressly waived by each Seller to the extent permitted by any Requirements of Law, to set–off, appropriate, apply and enforce such right of set–off against any and all items hereinabove referred to against any amounts owing to Buyer or any Indemnified Person by a Seller under the Repurchase Documents and the Repurchase Obligations, irrespective of whether Buyer, any Affiliate of Buyer or any Indemnified Person shall have made any demand under the Repurchase Documents and regardless of any other collateral securing such amounts, and in all cases without waiver or prejudice of Buyer's rights to recover a deficiency. Each Seller shall be deemed directly indebted to Buyer and the other Indemnified Persons in the full amount of all amounts owing to Buyer and the other Indemnified Persons by any Seller under the Repurchase Documents and the Repurchase Obligations, and Buyer and the other Indemnified Persons shall be entitled to exercise the rights of set–off provided for above. ANY AND ALL RIGHTS TO REQUIRE BUYER OR OTHER INDEMNIFIED PERSONS TO EXERCISE THEIR RIGHTS OR REMEDIES WITH RESPECT TO THE PURCHASED ASSETS, THE PLEDGED COLLATERAL OR OTHER INDEMNIFIED PERSONS UNDER THE REPURCHASE DOCUMENTS, PRIOR TO EXERCISING THE FOREGOING RIGHT

OF SET–OFF, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED BY EACH SELLER.

Buyer or any Indemnified Person shall promptly notify the applicable Seller after any such set-off and application made by Buyer or such Indemnified Person, provided that the failure to give such notice shall not affect the validity of such set–off and application. If an amount or obligation is unascertained, Buyer may in good faith estimate that obligation and setoff in respect of the estimate, subject to the relevant Party accounting to the other Party when the amount or obligation is ascertained. Nothing in this Section 18.17 shall be effective to create a charge or other security interest. This Section 18.17 shall be without prejudice and in addition to any right of set-off, combination of accounts, Lien or other rights to which any Party is at any time otherwise entitled.

Section 18.18 Sellers' Waiver of Setoff. Each Seller hereby waives any right of setoff it may have or to which it may be or become entitled under the Repurchase Documents or otherwise against Buyer, any Affiliate of Buyer, any Indemnified Person or their respective assets or properties.

Section 18.19 Power of Attorney. Each Seller hereby authorizes Buyer to file such financing statement or statements relating to the Purchased Assets without such Seller's signature thereon as Buyer, at its option, may deem appropriate. Each Seller hereby appoints Buyer as such Seller's agent and attorney in fact to file any such financing statement or statements in such Seller's name and to perform all other acts which Buyer deems appropriate to perfect and continue its ownership interest in and/or the security interest granted hereby, if applicable, and at all times after the occurrence of a Default or an Event of Default to protect, preserve and realize upon the Purchased Assets, including, but not limited to, the right to endorse notes, complete blanks in documents, transfer servicing, and sign assignments on behalf of such Seller as its agent and attorney in fact. This agency and power of attorney is coupled with an interest and is irrevocable without Buyer's consent. Each Seller shall pay the filing costs for any financing statement or statements prepared pursuant to this Section 18.19.

Section 18.20 Periodic Due Diligence Review. Buyer may perform continuing due diligence reviews with respect to any or all of the Purchased Assets, each Seller, Guarantor, Interim Servicer and Manager, including ordering new third party reports, for purposes of, among other things, verifying compliance with the representations, warranties, covenants, agreements, duties, obligations and specifications made under the Repurchase Documents or otherwise. Upon reasonable prior notice to the applicable Seller, unless a Default or Event of Default exists, in which case no notice is required, Buyer or its representatives may during normal business hours inspect any properties and examine, inspect and make copies of the books and records of such Seller, Guarantor, Interim Servicer and Manager, the Purchased Asset Documents and the Servicing Files, except that such rights shall not apply with respect to assets other than the Purchased Assets. Each Seller shall make available to Buyer one or more knowledgeable financial or accounting officers. Each Seller shall cause Interim Servicer to cooperate with Buyer by permitting Buyer to conduct due diligence reviews of the Servicing Files. Buyer may purchase Purchased Assets from a Seller based solely on the information provided by such Seller to Buyer in the Underwriting Package and the representations, warranties, duties, obligations and covenants contained herein, and Buyer may at any time conduct a partial or complete due diligence review on some or all of the Purchased Assets, including ordering new credit reports and new Appraisals on the underlying Mortgaged Properties and otherwise re-generating the information used to originate and underwrite such

Purchased Assets. Buyer may underwrite such Purchased Assets itself or engage a mutually acceptable third-party underwriter to do so. Each Seller shall reimburse Buyer for all actual, out-of-pocket, third-party costs and expenses incurred in connection with the activities described in this Section 18.20, subject to an annual, calendar year dollar cap of $30,000.

Section 18.21 Time of the Essence. Time is of the essence with respect to all obligations, duties, covenants, agreements, notices or actions or inactions of the parties under the Repurchase Documents.

Section 18.22 Joint and Several Repurchase Obligations.

(a) Each Seller hereby acknowledges and agrees that (i) each Seller shall be jointly and severally liable to Buyer to the maximum extent permitted by Requirements of Law for all Repurchase Obligations, (ii) until all Repurchase Obligations shall have been paid in full and the expiration of any applicable preference or similar period pursuant to any Insolvency Law, or at law or in equity, has expired without any claims having been made, the liability of each Seller (A) shall be absolute and unconditional and shall remain in full force and effect (and, if suspended or terminated, shall be reinstated) and, for the avoidance of doubt, such liability shall be absolute and unconditional and shall remain in full force and effect even if Buyer shall not make a claim before the expiration of such period asserting an interest in all or any part of any payment(s) received by Buyer, and (B) shall not be discharged, affected, modified or impaired on the occurrence from time to time of any event, including, but not limited to, any of the following events, whether or not with notice to, or the consent of, each or any Seller: (1) the waiver, forbearance, compromise, settlement, release, termination, modification or amendment (including, but not limited to, any extension or postponement of the time for payment or performance or renewal or refinancing) of any of the Repurchase Obligations or Repurchase Documents, (2) the failure to give notice to each or any Seller of the occurrence of a Default or an Event of Default, (3) the release, substitution or exchange by Buyer of any Purchased Asset (with or without consideration) or the acceptance by Buyer of any additional collateral or the availability or claimed availability of any other collateral or source of repayment or any nonperfection, subordination of priority (whether at law or equity) or any other impairment of any collateral, (4) the full or partial release of, or waiver or forbearance from enforcing any rights against, any Person primarily or secondarily liable for payment or performance of all or any part of the Repurchase Obligations, whether or not by Buyer, and whether or not in connection with any Insolvency Proceeding affecting any Seller or any other Person who, or any of whose property, shall at the time in question be obligated in respect of the Repurchase Obligations or any part thereof, (5) the sale, exchange, waiver, surrender or release of any Purchased Asset, guarantee or other collateral by Buyer, (6) the failure of Buyer to protect, secure, perfect or insure any Lien at any time held by Buyer as security for amounts owed by Sellers, or (7) to the extent permitted by Requirements of Law, any other event, occurrence, action or circumstance that would, in the absence of this Section 18.22, result in the release or discharge, in whole or in part, of any or all of Sellers from the payment, performance or observance of any Repurchase Obligation, (iii) Buyer shall not be required first to initiate any suit or to attempt to enforce or exhaust its remedies against any Seller or any other Person in order to enforce the Repurchase Documents or seek payment and/or performance of any or all of the Repurchase Obligations against any Seller and each Seller expressly agrees that, notwithstanding the occurrence of any of the foregoing, each Seller is and shall remain directly and primarily liable for all sums due under any of the Repurchase Documents, including, but not

limited to, all of the Repurchase Obligations, (iv) when making any demand hereunder against any Seller or any of the Purchased Assets, Buyer may, but shall be under no obligation to, make a similar demand on any other Seller, or otherwise pursue such rights and remedies as it may have against any Seller or any other Person or against any collateral security or guarantee related thereto or any right of offset with respect thereto, and any failure by Buyer to make any such demand, file suit or otherwise pursue such other rights or remedies or to collect any payments from any other Seller or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right offset, or any release of any Seller or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve any Seller in a respect of which a demand or collection is not made or Sellers not so released of their obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of Buyer against Sellers (as used herein, the term "demand" shall include the commencement and continuation of legal proceedings), (v) on disposition by Buyer of any property encumbered by any Purchased Assets, each Seller shall be and shall remain jointly and severally liable for any deficiency, (vi) each Seller waives (A) any and all notice of the creation, renewal, extension or accrual of any amounts at any time owing to Buyer by any other Seller under the Repurchase Documents and notice of or proof of reliance by Buyer upon any Seller or acceptance of the obligations of any Seller under this Section 18.22, and all such amounts, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the obligations of Sellers under this Agreement, and all dealings between Sellers, on the one hand, and Buyer, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the obligations of Sellers under this Agreement, and (B) diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon any Seller with respect to any amounts at any time owing to Buyer by any Seller under the Repurchase Documents, and (vii) each Seller shall continue to be liable under this Section 18.22 without regard to (A) the validity, regularity or enforceability of any other provision of this Agreement or any other Repurchase Document, any amounts at any time owing to Buyer by any Seller under the Repurchase Documents, or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by Buyer, (B) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by any Seller against Buyer, or (C) any other circumstance whatsoever (with or without notice to or knowledge of any Seller) which constitutes, or might be construed to constitute, an equitable or legal discharge of any Seller for any amounts owing to Buyer by any Seller under the Repurchase Documents, or of Sellers under this Agreement, in bankruptcy or in any other instance.

(b) Each Seller shall remain fully obligated under this Agreement notwithstanding that, without any reservation of rights against any Seller and without notice to or further assent by any Seller, any demand by Buyer for payment of any amounts owing to Buyer by any other Seller under the Repurchase Documents may be rescinded by Buyer and any the payment of any such amounts may be continued, and the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by Buyer (including any extension or postponement of the time for payment or performance or renewal or refinancing of any Repurchase Obligation), and this Agreement and the other Repurchase Documents and any other documents executed and delivered in connection therewith may be amended, modified,

supplemented or terminated, in whole or in part, in accordance with its terms, as Buyer may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by Buyer for the payment of amounts owing to Buyer by Sellers under the Repurchase Documents may be sold, exchanged, waived, surrendered or released. Buyer shall not have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for amounts owing to Buyer by Sellers under the Repurchase Documents, or any property subject thereto.

(c) To the extent that any Seller (the "Paying Seller") pays more than its proportionate share of any payment made hereunder, the Paying Seller shall be entitled to seek and receive contribution from and against any other Seller that has not paid its proportionate share; provided, that the provisions of this Section 18.22 shall not limit the duties, covenants, agreements, obligations and liabilities of any Seller to Buyer, and, notwithstanding any payment or payments made by the Paying Seller hereunder or any setoff or application of funds of the Paying Seller by Buyer, the Paying Seller shall not be entitled to be subrogated to any of the rights of Buyer against any other Seller or any collateral security or guarantee or right of setoff held by Buyer, nor shall the Paying Seller seek or be entitled to seek any contribution or reimbursement from any other Seller in respect of payments made by the Paying Seller hereunder, until all Repurchase Obligations are paid in full. If any amount shall be paid to the Paying Seller on account of such subrogation rights at any time when all such amounts shall not have been paid in full, such amount shall be held by the Paying Seller in trust for Buyer, segregated from other funds of the Paying Seller, and shall, forthwith upon receipt by the Paying Seller, be turned over to Buyer in the exact form received by the Paying Seller (duly indorsed by the Paying Seller to Buyer, if required), to be applied against the Repurchase Obligations, whether matured or unmatured, in such order as Buyer may determine.

(d) The Repurchase Obligations are full recourse obligations to each Seller, and each Seller hereby forever waives, demises, acquits and discharges any and all defenses, and shall at no time assert or allege any defense, to the contrary.

Section 18.23 PATRIOT Act Notice. Buyer hereby notifies each Seller that Buyer is required by the PATRIOT Act to obtain, verify and record information that identifies such Seller.

Section 18.24 Successors and Assigns. Subject to the foregoing, the Repurchase Documents and any Transactions shall be binding upon and shall inure to the benefit of the Parties and their successors and permitted assigns.

Section 18.25 Acknowledgement of Anti-Predatory Lending Policies. Each Seller and Buyer each have in place internal policies and procedures that expressly prohibit their purchase of any high cost mortgage loan.

Section 18.26 Effect of Amendment and Restatement. From and after the date hereof, the Existing Repurchase Agreement shall be amended, restated and superseded in its entirety by this Agreement. The parties hereto acknowledge and agree that the liens and security interests granted under the Existing Repurchase Agreement are, in each case, continuing in full force and effect and, upon the amendment and restatement of the Existing Repurchase Agreement pursuant to this Agreement, such liens and security interests secure and continue to secure the payment of the Repurchase Obligations.

Section 18.27 No Novation, Effect of Agreement. Sellers and Buyer have entered into this Agreement solely to amend and restate in their entirety the terms of the Existing Repurchase Agreement and do not intend this Agreement or the transactions contemplated hereby to be, and this Agreement and the transactions contemplated hereby shall not be

construed to be, a novation of any of the obligations owing by Sellers, Guarantor or Pledgor (the "Repurchase Parties") under or in connection with the Existing Repurchase Agreement, the Pledge Agreement or any of the other Repurchase Documents to which any Repurchase Party is a party. It is the intention of each of the parties hereto that (i) the perfection and priority of all security interests securing the payment of the Repurchase Obligations of the Repurchase Parties under the Existing Repurchase Agreement and the Pledge Agreement are preserved, (ii) the liens and security interests granted under the Existing Repurchase Agreement and the Pledge Agreement continue in full force and effect, and (iii) any reference to the Existing Repurchase Agreement in any such Repurchase Document shall be deemed to reference this Agreement.

Section 18.28 Recognition of the U.S. Special Resolution Regimes.

(a) In the event that Buyer becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from Buyer of this Agreement and/or the Repurchase Documents, and any interest and obligation in or under this Agreement and/or the Repurchase Documents, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement and/or the Repurchase Documents, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that Buyer or a BHC Act Affiliate of Buyer becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement and/or the Repurchase Documents that may be exercised against Buyer are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement and/or the Repurchase Documents were governed by the laws of the United States or a state of the United States.

[ONE OR MORE UNNUMBERED SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be **duly** executed as of the date first above written.

ACRC LENDER W LLC, a Delaware limited liability company

By:	/s/ Elaine McKay
Name:	Elaine McKay
Title:	Vice President

ACRC LENDER W TRS LLC, a Delaware limited liability company

By:	/s/ Elaine McKay
Name:	Elaine McKay
Title:	Vice President

BUYER:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: /s/ Michael P. Duncan
Name: Michael P. Duncan
Title: Director

Exhibit 21.1

SUBSIDIARIES OF ARES COMMERCIAL REAL ESTATE CORPORATION

Name	Jurisdiction
ACRC Holdings LLC	Delaware
ACRC Lender LLC	Delaware
ACRC Lender C LLC	Delaware
ACRC Lender W LLC	Delaware
ACRC Lender W TRS LLC	Delaware
ACRC 2017-FL3 Holder LLC	Delaware
ACRC Lender ML LLC	Delaware
ACRC Mezz Holdings LLC	Delaware
ACRC Warehouse Holdings LLC	Delaware
ACRC 2017-FL3 Holder I L.P.	Delaware
ACRE Commercial Mortgage 2017-FL3 Ltd.	Cayman
ACRE Commercial Mortgage 2017-FL3 LLC	Delaware
ACRC 2017-FL3 TRS LLC	Delaware
ACRC 2017-FL3 Holder REIT LLC	Delaware
ACRC MP Owner LLC	Delaware
ACRC WM Owner LLC	Delaware
ACRC WM Tenant LLC	Delaware
ACRC Lender Penry LLC	Delaware
ACRC Lender Woodside LLC	Delaware
ACRC Lender MS LLC	Delaware
ACRE Commercial Mortgage 2021-FL4 Ltd.	Cayman
ACRE Commercial Mortgage 2021-FL4 LLC	Delaware
ACRE Commercial Mortgage 2021-FL4 Holder LLC	Delaware

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statement (Form S-3 No. 333-211847) of Ares Commercial Real Estate Corporation

(2) Registration Statement (Form S-8 No. 333-181077) pertaining to the Ares Commercial Real Estate Corporation 2012 Equity Incentive Plan

(3) Registration Statement (Form S-8 No. 333-225891) pertaining to the Ares Commercial Real Estate Corporation Amended and Restated 2012 Equity Incentive Plan, and

(4) Registration Statement (Form S-3/A No. 333-232742) of Ares Commercial Real Estate Corporation

of our reports dated February 14, 2022, with respect to the consolidated financial statements of Ares Commercial Real Estate Corporation and subsidiaries and the effectiveness of internal control over financial reporting of Ares Commercial Real Estate Corporation and subsidiaries included in this Annual Report (Form 10-K) of Ares Commercial Real Estate Corporation for the year ended December 31, 2021.

/s/ Ernst & Young LLP
Los Angeles, California
February 14, 2022

Exhibit 31.1

Certification of Chief Executive Officer
of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)

I, Bryan Donohoe, certify that:

1. I have reviewed this Annual Report on Form 10-K of Ares Commercial Real Estate Corporation;

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: February 15, 2022

/s/ Bryan Donohoe

Bryan Donohoe
Chief Executive Officer

Exhibit 31.2

Certification of Chief Financial Officer
of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)

I, Tae-Sik Yoon, certify that:

1. I have reviewed this Annual Report on Form 10-K of Ares Commercial Real Estate Corporation;

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: February 15, 2022

/s/ Tae-Sik Yoon

Tae-Sik Yoon
Chief Financial Officer and Treasurer

Exhibit 32.1

Certification of Chief Executive Officer and Chief Financial Officer
Pursuant to
18 U.S.C Section 1350

In connection with the Annual Report on Form 10-K of Ares Commercial Real Estate Corporation (the "Company") for the year ended December 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Bryan Donohoe, as Chief Executive Officer of the Company, and Tae-Sik Yoon, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

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: February 15, 2022

/s/ Bryan Donohoe
Bryan Donohoe
Chief Executive Officer

/s/ Tae-Sik Yoon
Tae-Sik Yoon
Chief Financial Officer and Treasurer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version 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.