

---

**Section 1: 8-K (8-K)**

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

---

**FORM 8-K**

---

**CURRENT REPORT**  
Pursuant to Section 13 OR 15(d)  
of The Securities Exchange Act of 1934

**Date of Report (Date of earliest event reported): September 16, 2019**

---

**SPIRIT REALTY CAPITAL, INC.**  
**SPIRIT REALTY, L.P.**  
(Exact name of registrant as specified in its charter)

---

**Maryland**  
(Spirit Realty Capital, Inc.)

**001-36004**

**20-1676382**  
(Spirit Realty Capital, Inc.)

**Delaware**  
(Spirit Realty, L.P.)

**333-216815-01**

**20-1127940**  
(Spirit Realty, L.P.)

(State or other jurisdiction  
of incorporation)

(Commission File Number)

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

**2727 North Harwood Street, Suite 300**  
**Dallas, Texas 75201**  
(Address of principal executive offices) (Zip Code)

**Registrant's telephone number, including area code: (972) 476-1900**

**Not Applicable**  
(Former name or former address, if changed since last report.)

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

<u>Registrant</u>	<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
-------------------	----------------------------	------------------------------	--

Spirit Realty Capital, Inc.	Common Stock, \$0.05 par value per share	SRC	New York Stock Exchange
Spirit Realty Capital, Inc.	6.000% Series A Cumulative Redeemable Preferred Stock, \$0.01 par value per share	SRC-A	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

**Spirit Realty Capital, Inc.:** Emerging growth company

**Spirit Realty, L.P.:** Emerging growth company

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

**Spirit Realty Capital, Inc.:**

**Spirit Realty, L.P.:**

---

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

The information set forth in Item 2.03 of this Current Report on Form 8-K is incorporated by reference into this Item 1.01.

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

On September 16, 2019, Spirit Realty, L.P. (the “Issuer”), a Delaware limited partnership and subsidiary of Spirit Realty Capital, Inc. (the “Guarantor”), issued \$300.0 million aggregate principal amount of its 3.200% Notes due 2027 (the “2027 Notes”), and \$500.0 million aggregate principal amount of its 3.400% Notes due 2030 (the “2030 Notes” and, together with the 2027 Notes, the “Notes”).

#### *The 2027 Notes*

The 2027 Notes are fully and unconditionally guaranteed by the Guarantor (the “2027 Guarantee”). The terms of the 2027 Notes are governed by an indenture, dated as of August 18, 2016 (the “Base Indenture”), by and between the Issuer and U.S. Bank National Association, as trustee (the “Trustee”), as supplemented by a third supplemental indenture, dated as of September 16, 2019 (the “Third Supplemental Indenture” and, together with the Base Indenture, the “2027 Notes Indenture”), by and among the Issuer, the Guarantor and the Trustee. The 2027 Notes Indenture contains various restrictive covenants, including limitations on the ability of the Guarantor and its subsidiaries, including the Issuer, to incur additional indebtedness and requirements to maintain a pool of unencumbered assets. Copies of the Base Indenture and the Third Supplemental Indenture, including the form of 2027 Notes and the 2027 Guarantee, the terms of which are incorporated herein by reference, are attached as Exhibits 4.1 and 4.2, respectively, to this Current Report on Form 8-K.

The purchase price paid by the underwriters for the 2027 Notes was 99.281% of the principal amount thereof. The 2027 Notes are the Issuer’s senior unsecured obligations and rank equally in right of payment with all of the Issuer’s other existing and future senior unsecured indebtedness. However, the 2027 Notes are effectively subordinated in right of payment to all of the Issuer’s existing and future mortgage indebtedness and other secured indebtedness (to the extent of the collateral securing the same) and to all existing and future indebtedness and other liabilities, whether secured or unsecured, of the Issuer’s subsidiaries and of any entity the Issuer accounts for using the equity method of accounting and to all preferred equity not owned by the Issuer, if any, in its subsidiaries and of any entity the Issuer accounts for using the equity method of accounting. The 2027 Notes bear interest at 3.200% per annum. Interest is payable on January 15 and July 15 of each year, beginning January 15, 2020, until the maturity date of January 15, 2027.

The 2027 Notes will be redeemable in whole at any time or in part from time to time, at the Issuer’s option, at a redemption price equal to the sum of:

- an amount equal to 100% of the principal amount of the 2027 Notes to be redeemed plus accrued and unpaid interest and liquidated damages, if any, up to, but not including, the redemption date; and
- a make-whole premium calculated in accordance with the 2027 Notes Indenture.



- failure to pay any indebtedness that is (a) of the Issuer or the Guarantor, any subsidiary in which the Issuer or Guarantor has invested at least \$50,000,000 in capital or any entity in which the Issuer is the general partner or managing member, and (b) in an outstanding principal amount in excess of \$50,000,000 at final maturity or upon acceleration after the expiration of any applicable grace period, which indebtedness is not discharged, or such default in payment or acceleration is not cured or rescinded, within 60 days after written notice to the Issuer from the trustee (or to the Issuer and the trustee from holders of at least 25% in principal amount of the outstanding 2027 Notes); and
- certain events in bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Issuer, Guarantor, or any significant subsidiary (as defined in the Indenture) or all or substantially all of their respective property.

#### *The 2030 Notes*

The 2030 Notes are fully and unconditionally guaranteed by the Guarantor (the “2030 Guarantee” and, together with the 2027 Guarantee, the “Guarantees”). The terms of the 2030 Notes are governed by the Base Indenture, as supplemented by a fourth supplemental indenture, dated as of September 16, 2019 (the “Fourth Supplemental Indenture” and, together with the Base Indenture, the “2030 Notes Indenture”), by and among the Issuer, the Guarantor and the Trustee. The 2030 Notes Indenture contains various restrictive covenants, including limitations on the ability of the Guarantor and its subsidiaries, including the Issuer, to incur additional indebtedness and requirements to maintain a pool of unencumbered assets. Copies of the Base Indenture and the Fourth Supplemental Indenture, including the form of 2030 Notes and the 2030 Guarantee, the terms of which are incorporated herein by reference, are attached as Exhibits 4.1 and 4.3, respectively, to this Current Report on Form 8-K.

The purchase price paid by the underwriters for the 2030 Notes was 99.120% of the principal amount thereof. The 2030 Notes are the Issuer’s senior unsecured obligations and rank equally in right of payment with all of the Issuer’s other existing and future senior unsecured indebtedness. However, the 2030 Notes are effectively subordinated in right of payment to all of the Issuer’s existing and future mortgage indebtedness and other secured indebtedness (to the extent of the collateral securing the same) and to all existing and future indebtedness and other liabilities, whether secured or unsecured, of the Issuer’s subsidiaries and of any entity the Issuer accounts for using the equity method of accounting and to all preferred equity not owned by the Issuer, if any, in its subsidiaries and of any entity the Issuer accounts for using the equity method of accounting. The 2030 Notes bear interest at 3.400% per annum. Interest is payable on January 15 and July 15 of each year, beginning January 15, 2020, until the maturity date of January 15, 2030.

The 2030 Notes will be redeemable in whole at any time or in part from time to time, at the Issuer’s option, at a redemption price equal to the sum of:

- an amount equal to 100% of the principal amount of the 2030 Notes to be redeemed plus accrued and unpaid interest and liquidated damages, if any, up to, but not including, the redemption date; and

- a make-whole premium calculated in accordance with the 2030 Notes Indenture.

Notwithstanding the foregoing, if any of the 2030 Notes are redeemed on or after October 15, 2029 (three months prior to the maturity date of the 2030 Notes), the redemption price will not include a make-whole premium.

---

Certain events are considered events of default, which may result in the accelerated maturity of the 2030 Notes, including:

- default for 30 days in the payment of any installment of interest under the 2030 Notes;
- default in payment of the principal amount or redemption price due with respect to the 2030 Notes, when the same becomes due and payable;
- the 2030 Guarantee is not (or is claimed by the Guarantor in writing to the trustee not to be) in full force and effect (other than in accordance with the terms of the 2030 Notes Indenture) with respect to the 2030 Notes;

- failure by the Issuer or the Guarantor to comply with any of the agreements contained in the 2030 Notes or the 2030 Notes Indenture with respect to the 2030 Notes upon receipt of notice of such default by the trustee or by holders of not less than 25% in aggregate principal amount of the 2030 Notes then outstanding and failure to cure (or obtain a waiver of) such default within 60 days after receipt of such notice;
- failure to pay any indebtedness that is (a) of the Issuer or the Guarantor, any subsidiary in which the Issuer or Guarantor has invested at least \$50,000,000 in capital or any entity in which the Issuer is the general partner or managing member, and (b) in an outstanding principal amount in excess of \$50,000,000 at final maturity or upon acceleration after the expiration of any applicable grace period, which indebtedness is not discharged, or such default in payment or acceleration is not cured or rescinded, within 60 days after written notice to the Issuer from the trustee (or to the Issuer and the trustee from holders of at least 25% in principal amount of the outstanding 2030 Notes); and
- certain events in bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Issuer, Guarantor, or any significant subsidiary (as defined in the Indenture) or all or substantially all of their respective property.

The descriptions of the Indenture, the Third Supplemental Indenture and the Fourth Supplemental Indenture in this Current Report on Form 8-K are summaries and are qualified in their entirety by the terms of the Indenture, the Third Supplemental Indenture and Fourth Supplemental Indenture, respectively.



The Notes were offered pursuant to an effective shelf registration statement filed with the Securities and Exchange Commission on September 25, 2017 (Registration Nos. 333-220618 and 333-220618-01), a base prospectus, dated September 25, 2017, and a prospectus supplement, dated September 9, 2019, filed with the Securities and Exchange Commission pursuant to Rule 424(b) under the Securities Act of 1933, as amended. In connection with the filing of the prospectus supplement, we are filing as Exhibit 5.1 to this Current Report on Form 8-K an opinion of the Issuer's counsel, Latham & Watkins LLP, regarding the validity of the Notes and related Guarantees, as Exhibit 5.2 to this Current Report on Form 8-K an opinion of the Guarantor's counsel, Ballard Spahr LLP, regarding certain Maryland law issues, and as Exhibit 5.3 to this Current Report on Form 8-K an opinion of the Operating Partnership's counsel, Richards, Layton & Finger, P.A., regarding the validity of the Notes.

---

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
1.1	<a href="#"><u>Underwriting Agreement, dated September 9, 2019, between Spirit Realty Capital, Inc., Spirit Realty, L.P. and J.P. Morgan Securities LLC, BofA Securities, Inc., RBC Capital Markets, LLC, and SunTrust Robinson Humphrey, Inc., as representatives of the several underwriters named therein (incorporated by reference to Exhibit 1.1 to the Combined Current Report on Form 8-K of Spirit Realty Capital, Inc. and Spirit Realty, L.P. filed on September 11, 2019).</u></a>
4.1	<a href="#"><u>Indenture, dated as of August 18, 2016, among Spirit Realty, L.P., as issuer, and U.S. Bank, National Association, as trustee (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K of Spirit Realty Capital, Inc. filed on August 19, 2016).</u></a>
4.2	<a href="#"><u>Third Supplemental Indenture, dated as of September 16, 2019, among Spirit Realty, L.P., as issuer, Spirit Realty Capital, Inc., as guarantor, and U.S. Bank National Association, as trustee, including the form of the 2027 Notes and the 2027 Guarantee.</u></a>
4.3	<a href="#"><u>Fourth Supplemental Indenture, dated as of September 16, 2019, among Spirit Realty, L.P., as issuer, Spirit Realty Capital, Inc., as guarantor, and U.S. Bank National Association, as trustee, including the form of the 2030 Notes and the 2030 Guarantee.</u></a>
5.1	<a href="#"><u>Opinion of Latham and Watkins LLP</u></a>
5.2	<a href="#"><u>Opinion of Ballard Spahr LLP</u></a>
5.3	<a href="#"><u>Opinion of Richards, Layton &amp; Finger, P.A.</u></a>
23.1	Consent of Latham & Watkins LLP (included in <a href="#"><u>Exhibit 5.1</u></a> )
23.2	Consent of Ballard Spahr LLP (included in <a href="#"><u>Exhibit 5.2</u></a> )
23.3	Consent of Richards, Layton & Finger, P.A. (included in <a href="#"><u>Exhibit 5.3</u></a> )
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

---

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrants have duly caused this report to be signed on their behalf by the

undersigned hereunto duly authorized.

Date: September 16, 2019

SPIRIT REALTY CAPITAL, INC.

By: /s/ Michael Hughes  
Michael Hughes  
Executive Vice President and Chief Financial Officer

SPIRIT REALTY, L.P.

By: Spirit General OP Holdings, LLC, as general partner of  
Spirit Realty, L.P.

By: /s/ Michael Hughes  
Michael Hughes  
Executive Vice President and Chief Financial Officer

[\(Back To Top\)](#)

## **Section 2: EX-4.2 (EX-4.2)**

**Exhibit 4.2**

---

**SPIRIT REALTY, L.P.,**

**SPIRIT REALTY CAPITAL, INC.,  
AS GUARANTOR,**

**AND**

**U.S. BANK NATIONAL ASSOCIATION,  
AS TRUSTEE**

---

**THIRD SUPPLEMENTAL INDENTURE**

**DATED AS OF SEPTEMBER 16, 2019**

**TO INDENTURE DATED AUGUST 18, 2016**

---

**\$300,000,000**

**OF**

**3.200% NOTES DUE 2027**

---



---

## CONTENTS

Article I. RELATION TO BASE INDENTURE; DEFINITIONS	1
Section 1.1    Relation to Base Indenture	1
Section 1.2    Definitions	2
Article II. TERMS OF THE SECURITIES	9
Section 2.1    Title of the Securities	9
Section 2.2    Price	9
Section 2.3    Limitation on Initial Aggregate Principal Amount; Further Issuances	9
Section 2.4    Interest and Interest Rates; Stated Maturity of Notes	9
Section 2.5    Method of Payment	10
Section 2.6    Currency	11
Section 2.7    Additional Notes	11
Section 2.8    Redemption	11
Section 2.9    No Sinking Fund	11
Section 2.10   Registrar and Paying Agent	11
Article III. FORM OF THE SECURITIES	11
Section 3.1    Global Form	11
Section 3.2    Transfer and Exchange	12
Article IV. REDEMPTION OF NOTES	17
Section 4.1    Optional Redemption of Notes	17
Section 4.2    Notice of Optional Redemption, Selection of Notes	17
Section 4.3    Payment of Notes Called for Redemption by the Company	18
Article V. GUARANTEE	18
Section 5.1    Note Guarantee	19
Section 5.2    Execution and Delivery of Note Guarantee	20
Section 5.3    Limitation of Guarantor's Liability	20
Section 5.4    Application of Certain Terms and Provisions to the Guarantor	20
Article VI. ADDITIONAL COVENANTS	21
Section 6.1    Limitations on Incurrence of Debt	21
Section 6.2    Existence	23
Section 6.3    Merger, Consolidation or Sale	23
Section 6.4    Payment of Taxes and Other Claims	24
Section 6.5    Provision of Financial Information	24
Section 6.6    Maintenance of Properties	25
Section 6.7    Insurance	25

---

Article VII. DEFAULTS AND REMEDIES	25
Section 7.1    Events of Default	25
Section 7.2    Acceleration of Maturity; Rescission and Annulment	27
Article VIII. AMENDMENTS AND WAIVERS	27
Section 8.1    Without Consent of Holders	28
Section 8.2    With Consent of Holders	29
Article IX. MEETINGS OF HOLDERS OF NOTES	30
Section 9.1    Purposes for Which Meetings May Be Called	30
Section 9.2    Call, Notice and Place of Meetings	30
Section 9.3    Persons Entitled to Vote at Meetings	30
Section 9.4    Quorum; Action	31
Section 9.5    Determination of Voting Rights; Conduct and Adjournment of Meetings	31
Section 9.6    Counting Votes and Recording Action of Meetings	32
Article X. MISCELLANEOUS PROVISIONS	33
Section 10.1   Evidence of Compliance with Conditions Precedent, Certificates to Trustee	33
Section 10.2   No Recourse Against Others	33
Section 10.3   Trust Indenture Act Controls	33
Section 10.4   Governing Law	34
Section 10.5   Counterparts	34
Section 10.6   Successors	34
Section 10.7   Severability	34
Section 10.8   Table of Contents, Headings, Etc.	34
Section 10.9   Ratifications	34
Section 10.10  Effectiveness	35
Section 10.11  The Trustee	35

---

THIS THIRD SUPPLEMENTAL INDENTURE (this “**Third Supplemental Indenture**”) is entered into as of September 16, 2019 among Spirit Realty, L.P., a Delaware limited partnership (the “**Company**”), Spirit Realty Capital, Inc., a Maryland corporation, as guarantor (the “**Guarantor**”), and U.S. Bank National Association, as trustee (the “**Trustee**”).

**WITNESSETH:**

WHEREAS, the Company has delivered to the Trustee an Indenture, dated as of August 18, 2016 (the “**Base Indenture**”), providing for the issuance by the Company from time to time of Securities in one or more Series;

WHEREAS, Section 2.2 of the Base Indenture provides for various matters with respect to any Series of Securities issued under the Base Indenture to be established in an indenture supplemental to the Base Indenture;

WHEREAS, each of the Company and the Guarantor desires to execute this Third Supplemental Indenture to establish the form and to provide for the issuance of a Series of the Company’s senior notes designated as 3.200% Notes due 2027 (the “**Notes**”), in an initial aggregate principal amount of \$300,000,000;

WHEREAS, the board of managers of the General Partner (as defined below) and the board of directors of the Guarantor have each duly adopted resolutions authorizing the Company and the Guarantor, respectively, to execute and deliver this Third Supplemental Indenture; and

WHEREAS, all of the other conditions and requirements necessary to make this Third Supplemental Indenture, when duly executed and delivered, a valid and binding agreement in accordance with its terms and for the purposes herein expressed, have been performed and fulfilled.

THEREFORE, for and in consideration of the premises and the purchase of the Series of Securities provided for herein by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of Securities of such Series, as follows:

**ARTICLE I.**

**RELATION TO BASE INDENTURE; DEFINITIONS**

**Section 1.1 Relation to Base Indenture.**

This Third Supplemental Indenture constitutes an integral part of the Base Indenture. Notwithstanding any other provision of this Third Supplemental Indenture, all provisions of this Third Supplemental Indenture are expressly and solely for the benefit of the Holders of the Notes and any such provisions shall not be deemed to apply to any other Securities issued under the Base Indenture and shall not be deemed to amend, modify or supplement the Base Indenture for any purpose other than with respect to the Notes.

---

## Section 1.2 Definitions.

For all purposes of this Third Supplemental Indenture, except as otherwise expressly provided for or unless the context otherwise requires:

- (a) Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Base Indenture; and
- (b) All references herein to Articles and Sections, unless otherwise specified, refer to the corresponding Articles and Sections of this Third Supplemental Indenture as they amend or supplement the Base Indenture, and not the Base Indenture or any other document.

“**Acquired Debt**” means Debt of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

“**Additional Notes**” means additional Notes (other than the Initial Notes) issued under the Indenture in accordance with Sections 2.3, 2.7 and 6.1 hereof, as part of the same series as the Initial Notes.

“**Annual Service Charge**” for any period means, without duplication, the maximum amount that is payable for interest expense on, and original issue discount of, the Guarantor’s and its Subsidiaries’ Debt in such period.

“**Applicable Procedures**” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

“**Authentication Order**” means a Company Order to the Trustee to authenticate and deliver the Notes, signed by an Officer of the General Partner.

“**Bankruptcy Law**” shall have the meaning ascribed thereto in Section 7.1.

“**Business Day**” means any day, other than a Saturday or Sunday, or legal holidays on which banks in The City of New York are not required or authorized by law or executive order to be closed.

“**Capital Stock**” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting), including partnership or limited liability company interests, whether general or limited, in the equity of such Person, outstanding as of any date, including all options, warrants or other rights issued by such Person to purchase Capital Stock of such Person.

“**Clearstream**” means Clearstream Banking, *Société Anonyme*.

---

“**Company Order**” means a written order signed in the name of the Company by an Officer of the General Partner.

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

“**Comparable Treasury Price**” means, with respect to any Redemption Date, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (2) if we obtain fewer than six such Reference Treasury Dealer Quotations, the average of all such quotations.

“**Consolidated Income Available for Debt Service**” for any period means Earnings from Operations of the Guarantor and its Subsidiaries plus amounts which have been deducted, and minus amounts which have been added, for the following (without duplication):

- (a) interest expense on Debt of the Guarantor and its Subsidiaries;
- (b) provision for taxes of the Guarantor and its Subsidiaries based on income;
- (c) amortization of debt discount, premium and deferred financing costs;
- (d) provisions for unrealized gains and losses, depreciation and amortization and the effect of any other non-cash items;
- (e) extraordinary, non-recurring and other unusual items (including, without limitation, any costs and fees incurred in connection with any debt financing or amendments thereto, or any acquisition, disposition, recapitalization or similar transaction (regardless of whether such transaction is completed));
- (f) gains and losses resulting from the extinguishment of debt;
- (g) the effect of any noncash charge resulting from a change in accounting principles in determining Earnings from Operations for such period; and
- (h) amortization of deferred charges.

“**Debt**” of the Guarantor or any of its Subsidiaries means any indebtedness of the Guarantor or any of its Subsidiaries, excluding any accrued expense or trade payable, whether or not contingent, in respect of:

- (a) borrowed money evidenced by bonds, notes, debentures or similar instruments,



- 
- (b) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries, but only to the extent of the lesser of (x) the amount of indebtedness so secured and (y) the fair market value of the property subject to such mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries,
  - (c) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued and called or amounts representing the balance deferred and unpaid of the purchase price of any property or services, or all conditional sale obligations or obligations under any title retention agreement, or
  - (d) any lease of property by the Guarantor or any of its Subsidiaries as lessee that is reflected on the Guarantor's consolidated balance sheet and classified as a finance lease in accordance with GAAP,

and to the extent, in the case of items of indebtedness under clauses (a) and (c) of this definition, that any such items (other than letters of credit) would appear as a liability on the Guarantor's consolidated balance sheet in accordance with GAAP, and also includes, to the extent not otherwise included, any obligation by the Guarantor or any of its Subsidiaries to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), Debt of another Person (other than the Guarantor or any of its Subsidiaries); *provided, however*, that the term "Debt" shall not include Permitted Non-Recourse Guarantees of the Guarantor or any of its Subsidiaries until such time as they become primary obligations of, and payments are due and required to be made thereunder by, the Guarantor or any of its Subsidiaries.

**"Defaulted Interest"** shall have the meaning ascribed thereto in Section 2.5.

**"Definitive Note"** means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 3.2, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

**"Depository"** means, with respect to the Notes, the Depository Trust Company and any successor thereto.

**"Earnings from Operations"** for any period means net income excluding gains and losses on sales of investments, net, as reflected in the financial statements of the Guarantor and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

**"Encumbrance"** means any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries securing indebtedness for borrowed money, other than a Permitted Encumbrance.

**"Euroclear"** means Euroclear S.A./N.V., as operator of the Euroclear system.

**"Event of Default"** shall have the meaning ascribed thereto in Section 7.1.

---

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**GAAP**” means generally accepted accounting principles as used in the United States applied on a consistent basis as in effect from time to time.

“**General Partner**” means Spirit General OP Holdings, LLC, a Delaware limited liability company and the sole general partner of the Company.

“**Global Note Legend**” means the legend set forth in Section 3.2(f), which is required to be placed on all Global Notes issued under the Indenture.

“**Global Notes**” means, individually and collectively, each of the Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with the Indenture.

“**Holders**” shall have the meaning ascribed thereto in Section 2.4.

“**Indenture**” means the Base Indenture, as supplemented by this Third Supplemental Indenture, and as further supplemented, amended or restated.

“**Independent Investment Banker**” means one of the Reference Treasury Dealers that we appoint to act as the Independent Investment Banker from time to time.

“**Indirect Participant**” means a Person who holds a beneficial interest in a Global Note through a Participant.

“**Initial Notes**” means the first \$300,000,000 aggregate principal amount of Notes issued under this Third Supplemental Indenture on the date hereof.

“**interest**” means, when used with reference to the Notes, any interest payable under the terms of the Notes.

“**Interest Payment Date**” shall have the meaning ascribed thereto in Section 2.4.

“**Make-Whole Premium**” means, with respect to any Note redeemed before the Par Call Date, the excess, if any, of (a) the sum of the present values of the remaining scheduled payments of principal and interest thereon (exclusive of interest accrued to the date of redemption) that would be due if the Notes matured on the Par Call Date, determined by discounting to the Redemption Date, on a semiannual basis, such principal and interest at the Treasury Rate plus 25 basis points; over (b) the principal amount of such Notes.

“**Non-Recourse Debt**” means Debt of a joint venture or Subsidiary of the Company (or an entity in which the Company is the general partner or managing member) that is directly or indirectly secured by real estate assets or other real estate-related assets (including Capital Stock) of the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower and is non-recourse to the Guarantor or any of

---

its Subsidiaries (other than pursuant to a Permitted Non-Recourse Guarantee and other than with respect to the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower); *provided further* that, if any such Debt is partially recourse to the Guarantor or any of its Subsidiaries (other than pursuant to a Permitted Non-Recourse Guarantee and other than with respect to the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower) and therefore does not meet the criteria set forth above, only the portion of such Debt that does meet the criteria set forth above shall constitute “Non-Recourse Debt.”

“**Note Guarantee**” means the Guarantee by the Guarantor of the Company’s obligations under the Indenture and the Notes, executed pursuant to the provisions of this Third Supplemental Indenture.

“**Notes**” has the meaning assigned to it in the preamble to the Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under the Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

“**Officer**” means the Chief Executive Officer, President, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer or any Assistant Treasurer, the Secretary or any Assistant Secretary, and any Vice President of the General Partner or the Guarantor, as applicable.

“**Officer’s Certificate**” means a certificate signed by any Officer of the General Partner on behalf of the Company or the Guarantor, as applicable.

“**Opinion of Counsel**” means a written opinion of legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Guarantor.

“**Par Call Date**” means November 15, 2026 (two months prior to the maturity date of the Notes).

“**Participant**” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and with respect to the Depository Trust Company, shall include Euroclear and Clearstream).

“**Permitted Encumbrances**” means leases, Encumbrances securing taxes, assessments and similar charges, mechanics liens and other similar Encumbrances.

“**Permitted Non-Recourse Guarantees**” means customary completion or budget guarantees, indemnities or other customary guarantees provided to lenders (including by means of separate indemnification agreements, carve-out guarantees or pledges of the equity interests in the borrower) under such Non-Recourse Debt in the ordinary course of business of the Guarantor or any of its Subsidiaries in financing transactions that are directly or indirectly secured by real estate assets or other real estate-related assets (including Capital Stock) of a joint venture or Subsidiary of the Company (or an entity in which the Company is the general partner or managing member), in each case that is the borrower in such financing, but is non-recourse to Guarantor or any of its other Subsidiaries, except for such completion or budget guarantees, indemnities or other guarantees (including by means of separate indemnification agreements or carve-out guarantees or pledges of the equity interests in the borrower) as are consistent with customary industry practice (such as environmental indemnities and recourse triggers based on violation of transfer restrictions and other customary exceptions to non-recourse liability).

---

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

“**Primary Treasury Dealer**” shall have the meaning ascribed thereto in the definition of “Reference Treasury Dealer.”

“**Record Date**” shall have the meaning ascribed thereto in Section 2.4.

“**Redemption Date**” means, with respect to any Note or portion thereof to be redeemed in accordance with the provisions of Section 4.1, the date fixed for such redemption in accordance with the provisions of Section 4.1.

“**Redemption Price**” shall have the meaning ascribed thereto in Section 4.1.

“**Reference Treasury Dealer**” means, (1) each of J.P. Morgan Securities LLC, BofA Securities, Inc. and RBC Capital Markets, LLC and their respective successors and (2) one primary U.S. Government securities dealer (a “Primary Treasury Dealer”) selected by SunTrust Robinson Humphrey, Inc. and its successors, and three other firms that are Primary Treasury Dealers which we specify from time to time; *provided, however*, that if any of them ceases to be a Primary Treasury Dealer, we will substitute another Primary Treasury Dealer.

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

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

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

“**Significant Subsidiary**” shall have the meaning ascribed thereto in Section 7.1.

“**Subsidiary**” means, with respect to any Person, (i) a corporation, partnership, joint venture, limited liability company or other entity the majority of the shares, if any, of the non-voting capital stock or other equivalent ownership interests of which (except directors’ qualifying shares) are at the time directly or indirectly owned by such Person and/or any other Subsidiary or Subsidiaries of such Person, and the majority of the shares of the voting capital stock or other equivalent ownership interests of which (except directors’ qualifying shares) are at the time directly or indirectly owned by such Person and/or any other Subsidiary or Subsidiaries of such Person, and (ii) any other entity the accounts of which are consolidated with the accounts of such Person. For the purposes of this definition, “voting capital stock” means capital stock having voting power for the election of directors, whether at all times or only so long as no senior class of capital stock has such voting power by reason of any contingency.

---

**“Total Assets”** means, as of any date, the sum of (i) Undepreciated Real Estate Assets and (ii) all of the Guarantor’s and its Subsidiaries’ other assets, but excluding accounts receivable, right-of-use operating lease assets and non-real estate intangibles, determined in accordance with GAAP.

**“Total Unencumbered Assets”** means the sum of the Guarantor’s and its Subsidiaries’ Undepreciated Real Estate Assets and the value determined in accordance with GAAP of all of the Guarantor’s and its Subsidiaries’ other assets, other than accounts receivable and non-real estate intangibles, in each case not subject to an Encumbrance; *provided, however*, that “Total Unencumbered Assets” does not include investments in unconsolidated joint ventures, unconsolidated limited partnerships, unconsolidated limited liability companies and other unconsolidated entities.

**“Treasury Rate”** means, with respect to any Redemption Date, the rate per year equal to: (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15” or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue; *provided* that, if no maturity is within three months before or after the remaining term of the Notes to be redeemed, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Treasury Rate shall be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month; or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date. The Treasury Rate shall be calculated on the third Business Day preceding the Redemption Date. In the case of a satisfaction and discharge, such rates shall be determined as of the date of the deposit with the Trustee.

**“Undepreciated Real Estate Assets”** as of any date means the cost (original cost plus capital improvements) of real estate assets of the Guarantor and its Subsidiaries on such date, before depreciation and amortization charges determined on a consolidated basis in accordance with GAAP.

**“Uniform Fraudulent Conveyance Act”** means any applicable federal, provincial or state fraudulent conveyance legislation and any successor legislation.

**“Uniform Fraudulent Transfer Act”** means any applicable federal, provincial or state fraudulent transfer legislation and any successor legislation.

---

**“Unsecured Debt”** means Debt of the types described in clauses (a) and (c) of the definition thereof that is not secured by any mortgage, pledge, lien, charge, encumbrance or security interest of any kind upon any of the properties of the Guarantor or any of its Subsidiaries.

## ARTICLE II.

### TERMS OF THE SECURITIES

#### **Section 2.1 Title of the Securities.**

There shall be a Series of Securities designated the “3.200% Notes due 2027.”

#### **Section 2.2 Price.**

The Initial Notes shall be issued at a public offering price of 99.906% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.

#### **Section 2.3 Limitation on Initial Aggregate Principal Amount; Further Issuances.**

The aggregate principal amount of the Notes initially shall be limited to \$300,000,000. The Company may, without notice to or consent of the Holders, issue Additional Notes from time to time in the future in an unlimited principal amount, subject to compliance with the terms of the Indenture.

Nothing contained in this Section 2.3 or elsewhere in this Third Supplemental Indenture, or in the Notes, is intended to or shall limit execution by the Company or authentication or delivery by the Trustee of Notes under the circumstances contemplated by Sections 2.7, 2.8, 2.11, 3.6 or 9.6 of the Base Indenture.

#### **Section 2.4 Interest and Interest Rates; Stated Maturity of Notes.**

(a) The Notes shall bear interest at the rate of 3.200% per year. Interest on the Notes will accrue from September 16, 2019 and will be payable semi-annually in arrears on January 15 and July 15 of each year, commencing on January 15, 2020 (each such date being an **“Interest Payment Date”**), to the persons (the **“Holders”**) in whose names the Notes are registered in the security register on the preceding January 1 or July 1, whether or not a Business Day, as the case may be (each such date being a **“Record Date”**). Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months.

(b) If any Interest Payment Date, Stated Maturity or Redemption Date falls on a day that is not a Business Day, the required payment shall be made on the next Business Day as if it were made on the date the payment was due and no interest shall accrue on the amount so payable for the period from and after that Interest Payment Date, Stated Maturity or Redemption Date, as the case may be, until the next Business Day.

(c) The Stated Maturity of the Notes shall be January 15, 2027.

---

## Section 2.5 Method of Payment.

Principal, premium, if any, and interest shall be payable at the corporate trust office of the Trustee, initially located at 100 Wall Street, 16th Floor, New York, New York 10005. The Company shall pay interest (i) on any Notes in certificated form by check mailed to the address of the person entitled thereto; *provided, however*, that a Holder of any Notes in certificated form in the aggregate principal amount of more than \$2,000,000 may specify by written notice to the Company (with a copy to the Trustee) that it pay interest by wire transfer of immediately available funds to the account specified by the Holder in such notice, or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depository or its nominee. Any interest on any Note which is payable, but is not punctually paid or duly provided for, on any January 15 or July 15 (herein called “**Defaulted Interest**”) shall forthwith cease to be payable to the Holder registered as such on the relevant Record Date, and such Defaulted Interest shall be paid by the Company, at its election in each case, as provided in Clause (i) or (ii) below:

(a) The Company may elect to make payment of any Defaulted Interest to the persons in whose names the Notes are registered at 5:00 p.m., New York City time, on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 calendar days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall be not more than 15 calendar days and not less than 10 calendar days prior to the date of the proposed payment, and not less than 10 calendar days after the receipt by the Trustee of the notice of the proposed payment (unless the Trustee shall consent to an earlier date). The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be sent to each Holder at its address as it appears in the register, not less than 10 calendar days prior to such special record date (unless, the Trustee shall consent to an earlier date). Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been so mailed, such Defaulted Interest shall be paid to the persons in whose names the Notes are registered at 5:00 p.m., New York City time, on such special record date and shall no longer be payable pursuant to the following Clause (ii) of this Section 2.5.

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

---

**Section 2.6 Currency.**

Principal and interest on the Notes shall be payable in U.S. Dollars.

**Section 2.7 Additional Notes.**

The Company will be entitled, upon delivery of an Officer's Certificate, Opinion of Counsel and Authentication Order, subject to its compliance with Section 6.1, to issue Additional Notes under the Indenture that will have identical terms to the Initial Notes issued on the date of the Indenture other than with respect to the date of issuance and issue price; provided, however, that if such Additional Notes will not be fungible with the Initial Notes for U.S. federal income tax purposes, such additional notes will have a separate CUSIP number.

With respect to any Additional Notes, the Company will set forth in a resolution of the board of managers of the General Partner acting on behalf of the Company and an Officer's Certificate, a copy of each of which will be delivered to the Trustee, the following information:

- (a) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to the Indenture; and
- (b) the issue price, the issue date and the CUSIP number of such Additional Notes.

**Section 2.8 Redemption.**

The Notes may be redeemed at the option of the Company prior to the Stated Maturity as provided in Article IV.

**Section 2.9 No Sinking Fund.**

The provisions of Article XI of the Base Indenture shall not be applicable to the Notes.

**Section 2.10 Registrar and Paying Agent.**

The Trustee shall initially serve as Registrar and Paying Agent for the Notes.

**ARTICLE III.****FORM OF THE SECURITIES****Section 3.1 Global Form.**

The Notes shall initially be issued in the form of one or more permanent Global Notes. The Notes shall not be issuable in definitive form except as provided in Section 3.2(a) of this Third Supplemental Indenture. The Notes and the Trustee's certificate of authentication shall be substantially in the form attached as Exhibit A hereto. The Company shall execute and the Trustee shall, in accordance with Section 2.3 of the Base Indenture, authenticate and hold each Global Note as custodian for the Depositary. Each Global Note will represent such of the



---

outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Registrar or the custodian, at the direction of the Trustee. The terms and provisions contained in the form of Note attached as Exhibit A hereto shall constitute, and are hereby expressly made, a part of the Indenture and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Third Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby.

### **Section 3.2 Transfer and Exchange.**

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository; or

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) upon request from the Depository if there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depository shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.8 and 2.11 of the Base Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 3.2 or Section 2.8 and 2.11 of the Base Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 3.2(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 3.2(b) or (c).

---

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of the Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 3.2(b)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 3.2(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

both:

(A) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(B) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

both:

(C) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(D) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (b)(1) above.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Third Supplemental Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 3.2(g).

(c) *Transfer and Exchange of Beneficial Interests in Global Notes for Definitive Notes.* If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 3.2(b)(2), the Trustee will cause the aggregate principal amount of

---

the applicable Global Note to be reduced accordingly pursuant to Section 3.2(g) hereof, and the Company will execute and, upon the receipt of an Authentication Order, the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 3.2(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes.* A Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes. If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to the previous sentence at a time when a Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 3.2, the Trustee will authenticate one or more Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 3.2(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 3.2(e). A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Legend.* Each Global Note issued under the Indenture, unless specifically stated otherwise in the applicable provisions of the Indenture, will bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 3.2 OF THE THIRD SUPPLEMENTAL INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART

---

PURSUANT TO SECTION 3.2(a) OF THE THIRD SUPPLEMENTAL INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE BASE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF SPIRIT REALTY, L.P. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with in accordance with Section 2.12 of the Base Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order or at the Registrar’s request.

---

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.11 and 9.6 of the Base Indenture and Section 4.3 of this Third Supplemental Indenture).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under the Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Note during a period beginning at the opening of business fifteen days before any selection of Notes for redemption under Article IV and ending at the close of business on the earliest date on which the relevant notice of redemption is deemed to have been given to all Holders of Notes to be so redeemed; or

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 3.1 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 3.2 to effect a registration of transfer or exchange may be submitted by facsimile.

---

## ARTICLE IV.

### REDEMPTION OF NOTES

The provisions of Article III of the Base Indenture, as amended by the provisions of this Third Supplemental Indenture, shall apply to the Notes.

#### Section 4.1 Optional Redemption of Notes.

The Notes will be redeemable in whole at any time or in part from time to time, at the Company's option, at a redemption price (the "**Redemption Price**") calculated by the Company and equal the sum of (1) 100% of the principal amount of the Notes to be redeemed plus accrued and unpaid interest, up to, but not including, the Redemption Date plus (2) a Make-Whole Premium; *provided* that if the Redemption Date falls after a Record Date and on or prior to the corresponding Interest Payment Date, the Company will pay the full amount of accrued and unpaid interest, if any, on such Interest Payment Date to the Holder of record at the close of business on the corresponding Record Date (instead of the Holder surrendering its Notes for redemption) and the Redemption Price shall not include accrued and unpaid interest up to, but not including, the Redemption Date. Notwithstanding the foregoing, if the Notes are redeemed on or after November 15, 2026, the Redemption Price will not include a Make-Whole Premium.

#### Section 4.2 Notice of Optional Redemption, Selection of Notes.

(a) In case the Company shall desire to exercise the right to redeem all or, as the case may be, any part of the Notes pursuant to Section 4.1, it shall fix a date for redemption and it or, at its written request received by the Trustee not fewer than five Business Days prior (or such shorter period of time as may be acceptable to the Trustee) to the date the notice of redemption is to be sent, the Trustee in the name of and at the expense of the Company, shall mail or cause to be mailed, or sent by electronic transmission, a notice of such redemption not fewer than fifteen calendar days but not more than sixty calendar days prior to the Redemption Date to each Holder of Notes to be redeemed at its last address as the same appears on the Register; *provided* that if the Company makes such request of the Trustee, it shall, together with such request, also give written notice of the Redemption Date to the Trustee, *provided further* that the text of the notice shall be prepared by the Company. Such mailing shall be by first class mail or by electronic transmission. The notice, if sent in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or electronic submission or any defect in the notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note.

(b) Each such notice of redemption shall specify: (i) the aggregate principal amount of Notes to be redeemed, (ii) the CUSIP number or numbers of the Notes being redeemed, (iii) the Redemption Date (which shall be a Business Day), (iv) the Redemption Price at which Notes are to be redeemed, (v) the place or places of payment and that payment will be made upon presentation and surrender of such Notes and (vi) that interest accrued and unpaid to, but excluding, the Redemption Date will be paid as specified in said notice, and that on and after said date interest thereon or on the portion thereof to be redeemed will cease to accrue. If fewer

---

than all the Notes are to be redeemed, the notice of redemption shall identify the Notes to be redeemed (including CUSIP numbers, if any). In case any Note is to be redeemed in part only, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that, on and after the Redemption Date, upon surrender of such Note, a new Note or Note in principal amount equal to the unredeemed portion thereof will be issued.

(c) On or prior to the Redemption Date specified in the notice of redemption given as provided in this Section 4.2, the Company will deposit with the Paying Agent (or, if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 2.5 of the Base Indenture) an amount of money in immediately available funds sufficient to redeem on the Redemption Date all the Notes (or portions thereof) so called for redemption at the appropriate Redemption Price; *provided* that if such payment is made on the Redemption Date, it must be received by the Paying Agent, by 11:00 a.m., New York City time, on such date. The Company shall be entitled to retain any interest, yield or gain on amounts deposited with the Paying Agent pursuant to this Section 4.2 in excess of amounts required hereunder to pay the Redemption Price.

(d) If less than all of the outstanding Notes are to be redeemed, the Trustee will select, in a manner it deems fair and appropriate, subject to Applicable Procedures, the Notes or portions thereof of the Global Notes or the Notes in certificated form to be redeemed (in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof). The Notes (or portions thereof) so selected for redemption shall be deemed duly selected for redemption for all purposes hereof.

#### **Section 4.3 Payment of Notes Called for Redemption by the Company.**

(a) If notice of redemption has been given as provided in Section 4.2, the Notes or portion of Notes with respect to which such notice has been given shall become due and payable on the Redemption Date and at the place or places stated in such notice at the Redemption Price, and unless the Company defaults in the payment of the Redemption Price, (i) interest will cease to accrue on any Notes called for redemption at the Redemption Date, (ii) on and after the Redemption Date (unless the Company defaults in the payment of the Redemption Price) such Notes shall cease to be entitled to any benefit or security under the Indenture and (iii) the Holders thereof shall have no right in respect of such Notes except the right to receive the Redemption Price thereof. On presentation and surrender of such Notes at a place of payment in said notice specified, the said Notes or the specified portions thereof shall be paid and redeemed by the Company at the Redemption Price, together with interest accrued thereon to, but excluding, the Redemption Date.

(b) Upon presentation of any Note redeemed in part only, the Company shall execute and the Trustee shall authenticate and make available for delivery to the Holder thereof, at the expense of the Company, a new Note or Notes, of authorized denominations, in principal amount equal to the unredeemed portion of the Notes so presented.

---

**ARTICLE V.**

**GUARANTEE**

**Section 5.1 Note Guarantee.**

(a) Subject to this Article 5, the Guarantor hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, that:

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

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

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

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

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

(d) The Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. The Guarantor further agrees that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the



---

obligations guaranteed hereby may be accelerated as provided in Article VII for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article VII, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantor for the purpose of this Note Guarantee.

**Section 5.2 Execution and Delivery of Note Guarantee.**

To evidence its Note Guarantee set forth in Section 5.01, the Guarantor hereby agrees that this Third Supplemental Indenture will be executed on its behalf by one of its Officers. If an Officer whose signature is on this Third Supplemental Indenture no longer holds that office at the time the Trustee authenticates the Note on which the Note Guarantee is endorsed, the Note Guarantee will be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Third Supplemental Indenture on behalf of the Guarantor.

**Section 5.3 Limitation of Guarantor's Liability.**

The Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of the Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to the Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantor hereby irrevocably agree that the obligations of the Guarantor will be limited to the maximum amount that will not, after giving effect to all other contingent and fixed liabilities of the Guarantor that are relevant under such laws, result in the obligations of the Guarantor under its Note Guarantee constituting a fraudulent transfer or conveyance.

**Section 5.4 Application of Certain Terms and Provisions to the Guarantor.**

(a) For purposes of any provision of the Indenture which provides for the delivery by the Guarantor of an Officer's Certificate and/or an Opinion of Counsel, the definitions of such terms in Section 1.2 shall apply to the Guarantor as if references therein to the Company or the Guarantor, as applicable, were references to the Guarantor.

(b) Any notice or demand which by any provision of the Indenture is required or permitted to be given or served by the Trustee or by the Holders of Notes to or on the Guarantor may be given or served as described in Section 10.2 of the Base Indenture as if references therein to the Company were references to the Guarantor.

(c) Upon any demand, request or application by the Guarantor to the Trustee to take any action under the Indenture, the Guarantor shall furnish to the Trustee such Officer's Certificate and Opinion of Counsel as are required in Section 10.1 as if all references therein to the Company were references to the Guarantor.

---

ARTICLE VI.

ADDITIONAL COVENANTS

The following additional covenants shall apply with respect to the Notes so long as any of the Notes remain outstanding:

**Section 6.1 Limitations on Incurrence of Debt.**

(a) *Aggregate Debt Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds of the additional Debt on a pro forma basis, the aggregate principal amount of all the Guarantor's outstanding Debt and that of its Subsidiaries on a consolidated basis as determined in accordance with GAAP is greater than 60% of the sum of (without duplication):

(1) the Guarantor's Total Assets as of the end of the fiscal quarter covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to the incurrence of such additional Debt; and

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by the Guarantor or any of its Subsidiaries since the end of such fiscal quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

(b) *Debt Service Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Service Charge for the most recent quarterly period covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to such time, annualized (*i.e.*, multiplied by four) prior to the date on which such additional Debt is to be incurred shall have been less than 1.5, on a pro forma basis after giving effect thereto and to the application of the proceeds therefrom, and calculated on the assumption that:

(1) such Debt and any other Debt incurred by the Guarantor or its Subsidiaries since the first day of such quarterly period and the application of the proceeds therefrom, including to refinance other Debt since the first day of such period, had occurred at the beginning of such period;

---

(2) the repayment or retirement of any other Debt (other than Debt repaid or retired with the proceeds of any other Debt, which repayment or retirement shall be calculated pursuant to Section 6.1(b)(1) and not to this Section 6.1(b)(2)) by the Guarantor or its Subsidiaries since the first day of such quarterly period had been repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility, line of credit or similar facility shall be computed based upon the average daily balance of such Debt during such period);

(3) in the case of Acquired Debt or Debt incurred by the Guarantor or any of its Subsidiaries in connection with any acquisition since the first day of such quarterly period, the related acquisition had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation; and

(4) in the case of any acquisition or disposition by the Guarantor or any of its Subsidiaries of any asset or group of assets since the first day of such quarterly period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition and any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such pro forma calculation.

If the Debt giving rise to the need to make the calculation described in this Section 6.1 or any other Debt incurred after the first day of the relevant quarterly period bears interest at a floating rate (to the extent such Debt has been hedged to bear interest at a fixed rate, only the portion of such Debt, if any, that has not been so hedged), then, for purposes of calculating the Annual Debt Service Charge, the interest rate on such Debt will be computed on a pro forma basis as if the average interest rate that would have been in effect during the entire such period had been the applicable rate for the entire such period.

(c) *Maintenance of Total Unencumbered Assets.* The Guarantor and its Subsidiaries may not at any time own Total Unencumbered Assets equal to less than 150% of the aggregate outstanding principal amount of the Unsecured Debt of the Guarantor and its Subsidiaries on a consolidated basis.

(d) *Secured Debt Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt secured by any mortgage, lien, charge, pledge, encumbrance or security interest upon any of the Guarantor's property or the property of any of its Subsidiaries, whether owned at the date hereof or hereafter acquired, if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds thereof, the aggregate principal amount of all of the Guarantor's outstanding Debt and the outstanding Debt of its Subsidiaries on a consolidated basis for borrowed money that is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on the Guarantor's property or the property of any of its Subsidiaries is greater than 40% of the sum of (without duplication):

(1) the Guarantor's Total Assets as of the end of the fiscal quarter covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to the incurrence of such additional Debt; and

---

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by the Guarantor or any of its Subsidiaries since the end of such fiscal quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

For purposes of this Section 6.1, Debt shall be deemed to be “incurred” by the Guarantor or any of its Subsidiaries whenever the Guarantor or such Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof. Furthermore, nothing in the covenants described under this Section 6.1 shall prevent the incurrence by the Guarantor or any of its Subsidiaries of Debt between or among the Guarantor or any of its Subsidiaries.

**Section 6.2 Existence.**

Except as permitted below, the Guarantor will do or cause to be done all things necessary to preserve and keep in full force and effect the existence, rights, both charter and statutory, and franchises of the Guarantor and its Subsidiaries; *provided, however*, that the Guarantor will not be required to preserve any right or franchise if the Guarantor determines that the preservation of the right or franchise is no longer desirable in the conduct of the Guarantor’s business and that the loss of the right or franchise is not disadvantageous in any material respect to the Holders of the Notes.

**Section 6.3 Merger, Consolidation or Sale.**

The Company and the Guarantor may consolidate with, or sell, lease or convey all or substantially all of our respective assets to, or merge with or into, any other entity, *provided* that the following conditions are met:

(a) the Company or the Guarantor, as the case may be, shall be the continuing entity, or the successor entity (if other than Company or the Guarantor, as the case may be) formed by or resulting from any consolidation or merger or which shall have received the transfer of assets shall expressly assume payment of principal of, and premium, if any, and interest, on, all of the Notes and the due and punctual performance and observance of all of the covenants and conditions in the Indenture;

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

(c) an Officer’s Certificate covering these conditions shall be delivered to the Trustee.

In the case of any such consolidation, sale, conveyance or merger, but not a lease, in a transaction in which there is a successor entity, the successor entity will succeed to, and be substituted for, the Company or the Guarantor, as the case may be, under the Indenture and, subject to the terms of the Indenture, the Company or the Guarantor, as the case may be, will be released from their respective obligations under the Indenture.

---

#### **Section 6.4 Payment of Taxes and Other Claims.**

The Guarantor will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all taxes, assessments and governmental charges levied or imposed upon the Guarantor or any of its Subsidiaries or upon the Guarantor's or any such Subsidiary's income, profits or property and all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the Guarantor's or any such Subsidiary's property; *provided, however*, that the Guarantor will not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

#### **Section 6.5 Provision of Financial Information.**

Whether or not we or the Guarantor is subject to Section 13 or 15(d) of the Exchange Act, the Guarantor will, to the extent permitted under the Exchange Act, file with the SEC the annual reports, quarterly reports and other documents that the Guarantor would have been required to file with the SEC pursuant to such Section 13 or 15(d) (the "**Financial Statements**") if the Guarantor were so subject, such documents to be filed with the SEC on or prior to the respective dates (the "**Required Filing Dates**") by which the Guarantor would have been required so to file such documents if the Guarantor were so subject.

The Guarantor will also in any event (1) within 15 days of each Required Filing Date (a) transmit by mail or electronic transmittal to all Holders, as their names and addresses appear in the security register, without cost to such Holders, copies of the annual reports, quarterly reports and other documents that the Guarantor is required to file or would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if the Guarantor were subject to such sections, and (b) furnish to the Trustee copies of annual reports, quarterly reports and other documents that the Guarantor would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if the Guarantor were subject to such sections; *provided* that the foregoing transmittal and furnishing requirements will be deemed satisfied if the foregoing reports and documents are available on the SEC's EDGAR system or on the Guarantor's website within the applicable time period specified above, and (2) if filing such documents by the Guarantor with the SEC is not permitted under the Exchange Act, promptly upon written request and payment of the reasonable cost of duplication and delivery, supply copies of such documents to any prospective Holder. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including our compliance with any of the covenants thereunder (as to which the Trustee is entitled to rely conclusively on an Officer's Certificate). The Trustee shall have no liability or responsibility for the filing, timeliness or content of any such report.

---

**Section 6.6 Maintenance of Properties.**

The Guarantor will cause all of its properties used or useful in the conduct of the Guarantor's business or the business of any of its Subsidiaries to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements of the Guarantor's and its Subsidiaries' properties, all as in the Guarantor's judgment may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; *provided, however*, that the Guarantor and its Subsidiaries will not be prevented from selling or otherwise disposing for value the Guarantor's or its Subsidiaries' properties in the ordinary course of business.

**Section 6.7 Insurance.**

The Guarantor will, and will cause each of its Subsidiaries to, keep in force upon all of its properties and operations policies of insurance carried with responsible companies in such amounts and covering all such risks as shall be customary in the industry in accordance with prevailing market conditions and availability.

**ARTICLE VII.****DEFAULTS AND REMEDIES**

Sections 7.1 and 7.2 hereof shall replace Sections 6.1 and 6.2 of the Base Indenture with respect to the Notes only.

**Section 7.1 Events of Default.**

“**Event of Default,**” wherever used herein or in the Base Indenture with respect to the Notes, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default for 30 days in the payment of any installment of interest under the Notes;
- (b) default in the payment of the principal amount or Redemption Price due with respect to the Notes, when the same becomes due and payable;
- (c) the Guarantee is not (or is claimed by the Guarantor in writing to the Trustee not to be) in full force and effect (other than in accordance with the terms of the Indenture) with respect to the Notes;
- (d) failure by the Company or the Guarantor to comply with any of the Company's or the Guarantor's respective other agreements in the Notes or this Third Supplemental Indenture with respect to the Notes upon receipt by the Company of notice of such default by the Trustee or by Holders of not less than 25% in aggregate principal amount of the Notes then outstanding and the Company's failure to cure (or obtain a waiver of) such default within 60 days after it receives such notice;

- 
- (e) failure to pay any Debt (other than Non-Recourse Debt) (a) of the Company's or the Guarantor's, any Subsidiary in which the Company or the Guarantor has invested at least \$50,000,000 in capital (a "Significant Subsidiary") or any entity in which the Company is the general partner or managing member, and (b) in an outstanding principal amount in excess of \$50,000,000 at final maturity or upon acceleration after the expiration of any applicable grace period, which Debt is not discharged, or such default in payment or acceleration is not cured or rescinded, within 60 days after written notice to the Company from the Trustee (or to the Company and the Trustee from Holders of at least 25% in principal amount of the Notes then outstanding); or
- (f) the Company, the Guarantor or any Significant Subsidiary pursuant to or under or within meaning of any Bankruptcy Law:
- (i) commences a voluntary case or proceeding seeking liquidation, reorganization or other relief with respect to the Company, the Guarantor or a Significant Subsidiary or its debts or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary; or
  - (ii) consents to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against the Company, the Guarantor or a Significant Subsidiary; or
  - (iii) consents to the appointment of a custodian of it or for all or substantially of its property; or
  - (iv) makes a general assignment for the benefit of creditors; or
- (g) an involuntary case or other proceeding shall be commenced against the Company, the Guarantor or any Significant Subsidiary seeking liquidation, reorganization or other relief with respect to the Company, the Guarantor or a Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty (30) calendar days; or
- (h) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that
- (i) is for relief against the Company, the Guarantor or any of Significant Subsidiary in an involuntary case or proceeding;
  - (ii) appoints a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary; or
  - (iii) orders the liquidation of the Company, the Guarantor or a Significant Subsidiary;

---

, in each case in this Clause (g), the order or decree remains unstayed and in effect for thirty (30) calendar days.

The term “Bankruptcy Law” means title 11, U.S. Code or any similar Federal or State law for the relief of debtors.

**Section 7.2 Acceleration of Maturity; Rescission and Annulment.**

If an Event of Default with respect to the Notes at the time outstanding occurs and is continuing (other than an Event of Default referred to in Sections 7.1(f), 7.1(g) or 7.1(h), which shall result in an automatic acceleration), then in every such case the Trustee or the Holders of not less than 25% in principal amount of the outstanding Notes may declare the principal amount of and accrued and unpaid interest, if any, on all of the outstanding Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders) , and upon any such declaration such principal amount (or specified amount) and accrued and unpaid interest, if any, shall become immediately due and payable. If an Event of Default specified in Sections 7.1(f), 7.1(g) or 7.1(h) shall occur, the principal amount (or specified amount) of and accrued and unpaid interest, if any, on all outstanding Notes shall automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

At any time after the principal amount of and premium, if any, and interest on the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, Holders of a majority in aggregate principal amount of the Notes then outstanding on behalf of the Holders of all of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default and rescind and annul such declaration and its consequences, subject in all respects to Section 6.13 of the Base Indenture, if: (a) the Company or the Guarantor has deposited with the Trustee all required payments of the principal of, and premium, if any, and interest on, the Notes, plus the reasonable compensation and reimbursement for the Trustee’s expenses, disbursements and advances pursuant to Section 7.7 of the Base Indenture; and (b) all Events of Default, other than the non-payment of accelerated principal of (or specified portion thereof), or premium, if any, and interest on, the Notes that have become due solely because of such acceleration, have been cured or waived. No such rescission and annulment shall extend to or shall affect any subsequent default or Event of Default, or shall impair any right consequent thereon. The Company shall notify in writing a Responsible Officer of the Trustee, promptly upon becoming aware thereof, of any Event of Default, as provided in Section 4.3 of the Base Indenture and the steps to be taken to cure such Event of Default.

**ARTICLE VIII.**

**AMENDMENTS AND WAIVERS**

Sections 8.1 and 8.2 hereof shall replace Sections 9.1 and 9.2 of the Base Indenture with respect to the Notes only.



---

**Section 8.1 Without Consent of Holders.**

The Company, when authorized by resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental without the consent of the Holders of the Notes hereto for one or more of the following purposes:

- (a) to cure any ambiguity, defect or inconsistency in the Indenture; *provided* that this action shall not adversely affect the interests of the Holders of the Notes in any material respect;
- (b) to evidence a successor to the Company as obligor or to the Guarantor as guarantor under the Indenture;
- (c) to make any change that does not adversely affect the interests of the Holders of any Notes then outstanding;
- (d) to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture;
- (e) to provide for the acceptance of appointment of a successor Trustee or facilitate the administration of the trusts under the Indenture by more than one Trustee;
- (f) to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA;
- (g) to reflect the release of the Guarantor as guarantor, in accordance with the Indenture;
- (h) to secure the Notes;
- (i) to add guarantors with respect to the Notes; and
- (j) to conform the text of the Indenture, any Guarantee or the Notes to any provision of the description thereof set forth in the Prospectus to the extent that such provision in the Prospectus was intended to be a verbatim recitation of a provision of the Indenture, such Note Guarantee or the Notes (as certified in an Officer's Certificate).

Upon the written request of the Company, accompanied by a copy of the resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, in each case, certified by the corresponding Secretary or Assistant Secretary, authorizing the execution of any supplemental indenture, the Trustee is hereby authorized to join with the Company and the Guarantor in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations that may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture that affects the Trustee's own rights, duties or immunities under the Indenture or otherwise.

---

Any supplemental indenture authorized by the provisions of this Section 8.1 may be executed by the Company, the Guarantor and the Trustee without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 8.2.

**Section 8.2 With Consent of Holders.**

With the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, the Company, the Guarantor and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or any supplemental indenture or modifying in any manner the rights of the Holders of the Notes; *provided* that no such supplemental indenture shall, without the consent of the Holder of each Note so affected:

(a) reduce the principal amount of the Notes whose Holders must consent to an amendment, supplement or waiver; (e)

(b) reduce the rate of or extend the time for payment of interest (including default interest) on the Notes;

(c) reduce the principal of or premium, if any, on or change the Stated Maturity of the Notes;

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

(e) make the principal of or premium, if any, or interest on the Notes payable in any currency other than that stated in the Notes;

(f) make any change in Section 6.8 of the Base Indenture, 6.13 of the Base Indenture or Section 8.2(f) of this Third Supplemental Indenture (this sentence);

(g) waive a redemption payment with respect to the Notes; or

(h) release the Guarantor other than as provided in the Indenture or modify the Guarantee in any manner adverse to the Holders.

Upon the written request of the Company, accompanied by a copy of the resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, in each case, certified by the corresponding Secretary or Assistant Secretary, authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Holders as aforesaid, the Trustee shall join with the Company and the Guarantor in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture. In executing or accepting the additional trusts created by, any supplemental indenture

---

permitted by this Article or the modification thereby of the trusts created by the Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel or an Officer's Certificate or both stating that the execution of such supplemental indenture is authorized or permitted by the Indenture, that all conditions precedent to the execution of such supplemental indenture have been complied with, and that the supplemental indenture is a legal, valid and binding obligation of the Company and the Guarantor as applicable, enforceable against it in accordance with its terms.

It shall not be necessary for the consent of the Holders under this Section 8.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

## ARTICLE IX.

### MEETINGS OF HOLDERS OF NOTES

#### Section 9.1 Purposes for Which Meetings May Be Called.

A meeting of Holders may be called at any time and from time to time pursuant to this Article IX to make, give or take any request, demand, authorization, direction, notice, consent, waiver or other act provided by the Indenture to be made, given or taken by Holders.

#### Section 9.2 Call, Notice and Place of Meetings.

(a) The Trustee may at any time call a meeting of Holders for any purpose specified in Section 9.1, to be held at such time and at such place in The City of New York, New York as the Trustee shall determine. Notice of every meeting of Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 10.2 of the Base Indenture, not less than 21 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, the Guarantor or the Holders of at least 10% in principal amount of the outstanding Notes shall have requested the Trustee to call a meeting of the Holders for any purpose specified in Section 9.1, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed notice of or made the first publication of the notice of such meeting within 21 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company, the Guarantor, if applicable, or the Holders in the amount above specified, as the case may be, may determine the time and the place in the City of New York, New York, for such meeting and may call such meeting for such purposes by giving notice thereof as provided in Clause (a) of this Section 9.2.

#### Section 9.3 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders, a person shall be (a) a Holder of one or more outstanding Notes, or (b) a person appointed by an instrument in writing as proxy for a Holder or Holders of one or more outstanding Notes by such Holder or Holders; *provided*, that none of the Company, any other obligor upon the Notes or any Affiliate of the Company shall be

---

entitled to vote at any meeting of Holders or be counted for purposes of determining a quorum at any such meeting in respect of any Notes owned by such persons. The only persons who shall be entitled to be present or to speak at any meeting of Holders shall be the persons entitled to vote at such meeting and their counsel, any representatives of the Trustee and its counsel, any representatives of the Guarantor and its counsel and any representatives of the Company and its counsel.

#### **Section 9.4 Quorum; Action.**

The persons entitled to vote a majority in principal amount of the outstanding Notes shall constitute a quorum for a meeting of Holders; *provided, however,* that if any action is to be taken at the meeting with respect to a consent or waiver which may be given by the Holders of not less than a specified percentage in principal amount of the outstanding Notes, the persons holding or representing the specified percentage in principal amount of the outstanding Notes will constitute a quorum. In the absence of a quorum within 30 minutes after the time appointed for any such meeting, the meeting shall, if convened at the request of Holders, be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in Section 9.2, except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage, as provided above, of the principal amount of the outstanding Notes which shall constitute a quorum.

Except as limited by the proviso to Section 8.2, any resolution presented at a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted only by the affirmative vote of the Holders of a majority in principal amount of the outstanding Notes; *provided, however,* that, except as limited by the proviso to Section 8.2, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action which the Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority, in principal amount of the outstanding Notes may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the Holders of such specified percentage in principal amount of the outstanding Notes. Any such resolution passed or decision taken at any meeting of Holders duly held in accordance with this Section 9.4 shall be binding on all the Holders, whether or not such Holders were present or represented at the meeting.

#### **Section 9.5 Determination of Voting Rights; Conduct and Adjournment of Meetings.**

(a) Notwithstanding any other provisions of the Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders in regard to proof of the holding of Notes and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

---

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 9.2(b), in which case the Company, the Guarantor or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the persons entitled to vote a majority in principal amount of the outstanding Notes of such series represented at the meeting.

(c) At any meeting, each Holder or proxy shall be entitled to one vote for each \$1,000 principal amount of Notes held or represented by him; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote, except as a Holder or proxy.

(d) Any meeting of Holders duly called pursuant to Section 9.2 at which a quorum is present may be adjourned from time to time by persons entitled to vote a majority in principal amount of the outstanding Notes represented at the meeting; and the meeting may be held as so adjourned without further notice.

#### **Section 9.6 Counting Votes and Recording Action of Meetings.**

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the principal amounts and serial numbers of the outstanding Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 9.2 and, if applicable, Section 9.4. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and the Guarantor, and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

---

**ARTICLE X.**

**MISCELLANEOUS PROVISIONS**

**Section 10.1 Evidence of Compliance with Conditions Precedent, Certificates to Trustee.**

This Section 10.1 shall replace Sections 10.4 and 10.5 of the Base Indenture with respect to the Notes only.

Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of the Indenture, the Company shall furnish to the Trustee an Officer's Certificate in a form reasonably acceptable to the Trustee stating that all conditions precedent, if any, provided for in the Indenture relating to the proposed action have been complied with, and an Opinion of Counsel in a form reasonably acceptable to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with. The Officer's Certificate or Opinion of Counsel provided for in the Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in the Indenture shall include: (1) a statement that the person making such Officer's Certificate or Opinion of Counsel has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinion contained in such Officer's Certificate or Opinion of Counsel is based; (3) a statement that, in the opinion of such person, such person has made such examination or investigation as is necessary to enable such person to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with; *provided, however*, that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

**Section 10.2 No Recourse Against Others.**

This Section 10.2 shall replace Section 10.8 of the Base Indenture with respect to the Notes only.

Except as otherwise expressly provided in Article V of this Third Supplemental Indenture, no recourse for the payment of the principal of (including the Redemption Price upon redemption pursuant to Article IV) or premium, if any, or interest on any Note or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Third Supplemental Indenture or in any Note, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, partner, member, manager, employee, agent, officer, director or subsidiary, as such, past, present or future, of the Guarantor, the Company or any of the Company's Subsidiaries or of any successor thereto, either directly or through the Guarantor, the Company or any of the Company's Subsidiaries or any successor thereto, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Third Supplemental Indenture and the issue of the Notes.

**Section 10.3 Trust Indenture Act Controls.**

If any provision of this Third Supplemental Indenture limits, qualifies, or conflicts with another provision which is required or deemed to be included in this Third Supplemental Indenture by the TIA, such required or deemed provision shall control.

---

**Section 10.4 Governing Law.**

THIS THIRD SUPPLEMENTAL INDENTURE AND THE NOTES, INCLUDING ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THE BASE INDENTURE, THIRD SUPPLEMENTAL INDENTURE OR THE NOTES, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

**Section 10.5 Counterparts.**

This Third Supplemental Indenture may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. The exchange of copies of this Third Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Third Supplemental Indenture as to the parties hereto and may be used in lieu of the original Third Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

**Section 10.6 Successors.**

All agreements of the Company and the Guarantor in this Third Supplemental Indenture and the Notes shall bind their respective successors.

All agreements of the Trustee in this Third Supplemental Indenture shall bind its successor.

**Section 10.7 Severability.**

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

**Section 10.8 Table of Contents, Headings, Etc.**

The Table of Contents and headings of the Articles and Sections of this Third Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

**Section 10.9 Ratifications.**

The Base Indenture, as supplemented and amended by this Third Supplemental Indenture, is in all respects ratified and confirmed. The Indenture shall be read, taken and construed as one and the same instrument. All provisions included in this Third Supplemental Indenture with respect to the Notes supersede any conflicting provisions included in the Base Indenture unless not permitted by law. The Trustee accepts the trusts created by the Indenture, and agrees to perform the same upon the terms and conditions of the Indenture.

---

**Section 10.10 Effectiveness.**

The provisions of this Third Supplemental Indenture shall become effective as of the date hereof.

**Section 10.11 The Trustee.**

The Trustee accepts the trusts created by the Indenture, and agrees to perform the same upon the terms and conditions of the Indenture. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Third Supplemental Indenture or the due execution thereof by the Company. The recitals contained herein shall be taken as the statements solely of the Company, and the Trustee assumes no responsibility for the correctness thereof. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), excluding any creditor relationship listed in TIA Section 311(b), the Trustee shall be subject to the provisions of the TIA regarding the collection of the claims against the Company (or any such other obligor). If the Trustee has or shall acquire a conflicting interest within the meaning of the TIA, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the TIA and the Indenture.



---

IN WITNESS WHEREOF, the parties hereto have caused this Third Supplemental Indenture to be duly executed by their respective officers hereunto duly authorized, all as of the day and year first written above.

SPIRIT REALTY, L.P.,  
as the Company

By: Spirit General OP Holdings, LLC  
Its Sole General Partner

By: /s/ Michael Hughes  
Name: Michael Hughes  
Title: Executive Vice President and Chief Financial  
Officer

SPIRIT REALTY CAPITAL, INC.,  
as the Guarantor

By: /s/ Michael Hughes  
Name: Michael Hughes  
Title: Executive Vice President and Chief Financial  
Officer

U.S. BANK NATIONAL ASSOCIATION, as the Trustee

By: /s/ Christopher J. Grell  
Name: Christopher J. Grell  
Title: Vice President

---

**EXHIBIT A**

**SPIRIT REALTY, L.P.**

THIS GLOBAL NOTE IS HELD BY THE DEPOSITORY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 3.2 OF THE THIRD SUPPLEMENTAL INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 3.2 OF THE THIRD SUPPLEMENTAL INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE BASE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITORY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

**SPIRIT REALTY, L.P.**

**3.200% NOTES DUE 2027**

**Certificate No.** [ ]

**CUSIP No.:** [ ]

**ISIN:** [ ]

**\$[ ]**

Spirit Realty, L.P., a Delaware limited partnership (herein called the “Company”, which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to Cede & Co., or its registered assigns, the principal sum of [ ] MILLION DOLLARS (\$[ ]), or such lesser amount as is set forth in the Schedule of

---

Exchanges of Interests in the Global Note on the other side of this Note.] on January 15, 2027 at the office or agency of the Company maintained for that purpose in accordance with the terms of the Indenture, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay interest semi-annually in arrears on January 15 and July 15 of each year, commencing on January 15, 2020 to the Holder in whose name the Note is registered in the security register on the preceding January 1 or July 1, whether or not a Business Day, as the case may be, in accordance with the terms of the Indenture. Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months. The Company shall pay interest on any Notes in certificated form by check mailed to the address of the person entitled thereto; provided, however, that a Holder of any Notes in certificated form in the aggregate principal amount of more than \$2,000,000 may specify by written notice to the Company that it pay interest by wire transfer of immediately available funds to the account specified by the Holder in such notice, or on any Global Notes by wire transfer of immediately available funds to the account of the Depositary or its nominee. This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually or by facsimile by the Trustee or a duly authorized authenticating agent under the Indenture.

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

Dated: September 16, 2019

SPIRIT REALTY, L.P.

By: Spirit General OP Holdings, LLC, Its Sole  
General Partner

By: \_\_\_\_\_

Name:

Title:

---

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This is one of the Notes described in the within-named Indenture. : [ ], 20[ ]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

---

[FORM OF REVERSE SIDE OF NOTE]

**SPIRIT REALTY, L.P.**

**3.200% NOTES DUE 2027**

This Note is one of a duly authorized issue of Securities of the Company, designated as its 3.200% Notes due 2027 (herein called the “**Notes**”), issued under and pursuant to an Indenture dated as of August 18, 2016 (herein called the “**Base Indenture**”), among the Company, the Guarantor and U.S. Bank National Association, as trustee (herein called the “**Trustee**”), as supplemented by the Third Supplemental Indenture, dated as of September 16, 2019 (herein called the “**Third Supplemental Indenture**,” and together with the Base Indenture, the “**Indenture**”), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Capitalized terms used but not otherwise defined in this Note shall have the respective meanings ascribed thereto in the Indenture.

If an Event of Default (other than an Event of Default specified in Sections 7.1(f), 7.1(g) and 7.1(h) of the Third Supplemental Indenture with respect to the Company) occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest on all Notes may be declared to be due and payable by either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, and, upon said declaration the same shall be immediately due and payable. If an Event of Default specified in Sections 7.1(f), 7.1(g) and 7.1(h) of the Third Supplemental Indenture occurs with respect to the Company, the principal of and premium, if any, and interest accrued and unpaid on all the Notes shall be immediately and automatically due and payable without necessity of further action.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the Holders of the Notes, subject to exceptions set forth in Section 8.2 of the Third Supplemental Indenture. Subject to the provisions of the Indenture, the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding may, on behalf of the Holders of all of the Notes, waive any past default or Event of Default, subject to exceptions set forth in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall impair, as among the Company and the Holder of the Notes, the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Note at the place, at the respective times, at the rate and in the coin or currency prescribed herein and in the Indenture.

Interest on the Notes shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

---

The Notes are issuable in fully registered form, without coupons, in denominations of \$2,000 principal amount and any multiple of \$1,000. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, without payment of any service charge but with payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in connection with any registration or exchange of Notes, Notes may be exchanged for a like aggregate principal amount of Notes of any other authorized denominations.

The Company shall have the right to redeem the Notes under certain circumstances as set forth in Section 4.1, Section 4.2 and Section 4.3 of the Third Supplemental Indenture.

The Notes are not subject to redemption through the operation of any sinking fund.

Except as expressly provided in Article V of the Third Supplemental Indenture, no recourse for the payment of the principal of (including the Redemption Price (as defined in Section 4.1 of the Third Supplemental Indenture) upon redemption pursuant to Article IV of the Third Supplemental Indenture) or any premium, if any, or interest on this Note, or for any claim based hereon or otherwise in respect hereof, and no recourse under or upon any obligation, covenant or agreement of the Company in the Indenture or in any Note, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, partner, member, manager, employee, agent, officer, director or subsidiary, as such, past, present or future, of the Guarantor, the Company or any of the Company's Subsidiaries or of any successor thereto, either directly or through the Guarantor, the Company or any of the Company's subsidiaries or of any successor thereto, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as consideration for, the execution of the Indenture and the issue of this Note.

---

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_

(Insert assignee's legal name)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

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

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

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

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

Signature Guarantee\*: \_\_\_\_\_

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

---

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE \*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in principal amount at maturity of this Global Note	Amount of increase in principal amount at maturity of this Global Note	Principal amount at maturity of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian
------------------	--	--	--	---

---

\* This Schedule should be included only if the Note is issued in global form.

[\(Back To Top\)](#)

### **Section 3: EX-4.3 (EX-4.3)**

**Exhibit 4.3**

---

**SPIRIT REALTY, L.P.,**

**SPIRIT REALTY CAPITAL, INC.,  
AS GUARANTOR,**

**AND**

**U.S. BANK NATIONAL ASSOCIATION,  
AS TRUSTEE**

---

**FOURTH SUPPLEMENTAL INDENTURE**

**DATED AS OF SEPTEMBER 16, 2019**

**TO INDENTURE DATED AUGUST 18, 2016**

---

**\$500,000,000**

**OF**

**3.400% NOTES DUE 2030**

---



---

## CONTENTS

Article I. RELATION TO BASE INDENTURE; DEFINITIONS	1
Section 1.1    Relation to Base Indenture	1
Section 1.2    Definitions	2
Article II. TERMS OF THE SECURITIES	9
Section 2.1    Title of the Securities	9
Section 2.2    Price	9
Section 2.3    Limitation on Initial Aggregate Principal Amount; Further Issuances	9
Section 2.4    Interest and Interest Rates; Stated Maturity of Notes	9
Section 2.5    Method of Payment	10
Section 2.6    Currency	11
Section 2.7    Additional Notes	11
Section 2.8    Redemption	11
Section 2.9    No Sinking Fund	11
Section 2.10   Registrar and Paying Agent	11
Article III. FORM OF THE SECURITIES	11
Section 3.1    Global Form	11
Section 3.2    Transfer and Exchange	12
Article IV. REDEMPTION OF NOTES	17
Section 4.1    Optional Redemption of Notes	17
Section 4.2    Notice of Optional Redemption, Selection of Notes	17
Section 4.3    Payment of Notes Called for Redemption by the Company	18
Article V. GUARANTEE	19
Section 5.1    Note Guarantee	19
Section 5.2    Execution and Delivery of Note Guarantee	20
Section 5.3    Limitation of Guarantor's Liability	20
Section 5.4    Application of Certain Terms and Provisions to the Guarantor	20
Article VI. ADDITIONAL COVENANTS	21
Section 6.1    Limitations on Incurrence of Debt	21
Section 6.2    Existence	23
Section 6.3    Merger, Consolidation or Sale	23
Section 6.4    Payment of Taxes and Other Claims	24
Section 6.5    Provision of Financial Information	24
Section 6.6    Maintenance of Properties	25
Section 6.7    Insurance	25

---

Article VII. DEFAULTS AND REMEDIES	25
Section 7.1    Events of Default	25
Section 7.2    Acceleration of Maturity; Rescission and Annulment	27
Article VIII. AMENDMENTS AND WAIVERS	27
Section 8.1    Without Consent of Holders	28
Section 8.2    With Consent of Holders	29
Article IX. MEETINGS OF HOLDERS OF NOTES	30
Section 9.1    Purposes for Which Meetings May Be Called	30
Section 9.2    Call, Notice and Place of Meetings	30
Section 9.3    Persons Entitled to Vote at Meetings	30
Section 9.4    Quorum; Action	31
Section 9.5    Determination of Voting Rights; Conduct and Adjournment of Meetings	31
Section 9.6    Counting Votes and Recording Action of Meetings	32
Article X. MISCELLANEOUS PROVISIONS	33
Section 10.1   Evidence of Compliance with Conditions Precedent, Certificates to Trustee	33
Section 10.2   No Recourse Against Others	33
Section 10.3   Trust Indenture Act Controls	33
Section 10.4   Governing Law	34
Section 10.5   Counterparts	34
Section 10.6   Successors	34
Section 10.7   Severability	34
Section 10.8   Table of Contents, Headings, Etc.	34
Section 10.9   Ratifications	34
Section 10.10  Effectiveness	35
Section 10.11  The Trustee	35

---

THIS FOURTH SUPPLEMENTAL INDENTURE (this “**Fourth Supplemental Indenture**”) is entered into as of September 16, 2019 among Spirit Realty, L.P., a Delaware limited partnership (the “**Company**”), Spirit Realty Capital, Inc., a Maryland corporation, as guarantor (the “**Guarantor**”), and U.S. Bank National Association, as trustee (the “**Trustee**”).

**WITNESSETH:**

WHEREAS, the Company has delivered to the Trustee an Indenture, dated as of August 18, 2016 (the “**Base Indenture**”), providing for the issuance by the Company from time to time of Securities in one or more Series;

WHEREAS, Section 2.2 of the Base Indenture provides for various matters with respect to any Series of Securities issued under the Base Indenture to be established in an indenture supplemental to the Base Indenture;

WHEREAS, each of the Company and the Guarantor desires to execute this Fourth Supplemental Indenture to establish the form and to provide for the issuance of a Series of the Company’s senior notes designated as 3.400% Notes due 2030 (the “**Notes**”), in an initial aggregate principal amount of \$500,000,000;

WHEREAS, the board of managers of the General Partner (as defined below) and the board of directors of the Guarantor have each duly adopted resolutions authorizing the Company and the Guarantor, respectively, to execute and deliver this Fourth Supplemental Indenture; and

WHEREAS, all of the other conditions and requirements necessary to make this Fourth Supplemental Indenture, when duly executed and delivered, a valid and binding agreement in accordance with its terms and for the purposes herein expressed, have been performed and fulfilled.

THEREFORE, for and in consideration of the premises and the purchase of the Series of Securities provided for herein by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of Securities of such Series, as follows:

**ARTICLE I.**

**RELATION TO BASE INDENTURE; DEFINITIONS**

**Section 1.1 Relation to Base Indenture.**

This Fourth Supplemental Indenture constitutes an integral part of the Base Indenture. Notwithstanding any other provision of this Fourth Supplemental Indenture, all provisions of this Fourth Supplemental Indenture are expressly and solely for the benefit of the Holders of the Notes and any such provisions shall not be deemed to apply to any other Securities issued under the Base Indenture and shall not be deemed to amend, modify or supplement the Base Indenture for any purpose other than with respect to the Notes.

---

## Section 1.2 Definitions.

For all purposes of this Fourth Supplemental Indenture, except as otherwise expressly provided for or unless the context otherwise requires:

- (a) Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Base Indenture; and
- (b) All references herein to Articles and Sections, unless otherwise specified, refer to the corresponding Articles and Sections of this Fourth Supplemental Indenture as they amend or supplement the Base Indenture, and not the Base Indenture or any other document.

“**Acquired Debt**” means Debt of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

“**Additional Notes**” means additional Notes (other than the Initial Notes) issued under the Indenture in accordance with Sections 2.3, 2.7 and 6.1 hereof, as part of the same series as the Initial Notes.

“**Annual Service Charge**” for any period means, without duplication, the maximum amount that is payable for interest expense on, and original issue discount of, the Guarantor’s and its Subsidiaries’ Debt in such period.

“**Applicable Procedures**” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

“**Authentication Order**” means a Company Order to the Trustee to authenticate and deliver the Notes, signed by an Officer of the General Partner.

“**Bankruptcy Law**” shall have the meaning ascribed thereto in Section 7.1.

“**Business Day**” means any day, other than a Saturday or Sunday, or legal holidays on which banks in The City of New York are not required or authorized by law or executive order to be closed.

“**Capital Stock**” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting), including partnership or limited liability company interests, whether general or limited, in the equity of such Person, outstanding as of any date, including all options, warrants or other rights issued by such Person to purchase Capital Stock of such Person.

“**Clearstream**” means Clearstream Banking, *Société Anonyme*.

---

“**Company Order**” means a written order signed in the name of the Company by an Officer of the General Partner.

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

“**Comparable Treasury Price**” means, with respect to any Redemption Date, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (2) if we obtain fewer than six such Reference Treasury Dealer Quotations, the average of all such quotations.

“**Consolidated Income Available for Debt Service**” for any period means Earnings from Operations of the Guarantor and its Subsidiaries plus amounts which have been deducted, and minus amounts which have been added, for the following (without duplication):

- (a) interest expense on Debt of the Guarantor and its Subsidiaries;
- (b) provision for taxes of the Guarantor and its Subsidiaries based on income;
- (c) amortization of debt discount, premium and deferred financing costs;
- (d) provisions for unrealized gains and losses, depreciation and amortization and the effect of any other non-cash items;
- (e) extraordinary, non-recurring and other unusual items (including, without limitation, any costs and fees incurred in connection with any debt financing or amendments thereto, or any acquisition, disposition, recapitalization or similar transaction (regardless of whether such transaction is completed));
- (f) gains and losses resulting from the extinguishment of debt;
- (g) the effect of any noncash charge resulting from a change in accounting principles in determining Earnings from Operations for such period; and
- (h) amortization of deferred charges.

“**Debt**” of the Guarantor or any of its Subsidiaries means any indebtedness of the Guarantor or any of its Subsidiaries, excluding any accrued expense or trade payable, whether or not contingent, in respect of:

- (a) borrowed money evidenced by bonds, notes, debentures or similar instruments,

- 
- (b) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries, but only to the extent of the lesser of (x) the amount of indebtedness so secured and (y) the fair market value of the property subject to such mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries,
  - (c) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued and called or amounts representing the balance deferred and unpaid of the purchase price of any property or services, or all conditional sale obligations or obligations under any title retention agreement, or
  - (d) any lease of property by the Guarantor or any of its Subsidiaries as lessee that is reflected on the Guarantor's consolidated balance sheet and classified as a finance lease in accordance with GAAP,

and to the extent, in the case of items of indebtedness under clauses (a) and (c) of this definition, that any such items (other than letters of credit) would appear as a liability on the Guarantor's consolidated balance sheet in accordance with GAAP, and also includes, to the extent not otherwise included, any obligation by the Guarantor or any of its Subsidiaries to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), Debt of another Person (other than the Guarantor or any of its Subsidiaries); *provided, however*, that the term "Debt" shall not include Permitted Non-Recourse Guarantees of the Guarantor or any of its Subsidiaries until such time as they become primary obligations of, and payments are due and required to be made thereunder by, the Guarantor or any of its Subsidiaries.

**"Defaulted Interest"** shall have the meaning ascribed thereto in Section 2.5.

**"Definitive Note"** means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 3.2, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

**"Depository"** means, with respect to the Notes, the Depository Trust Company and any successor thereto.

**"Earnings from Operations"** for any period means net income excluding gains and losses on sales of investments, net, as reflected in the financial statements of the Guarantor and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

**"Encumbrance"** means any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by the Guarantor or any of its Subsidiaries securing indebtedness for borrowed money, other than a Permitted Encumbrance.

**"Euroclear"** means Euroclear S.A./N.V., as operator of the Euroclear system.

**"Event of Default"** shall have the meaning ascribed thereto in Section 7.1.

---

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**GAAP**” means generally accepted accounting principles as used in the United States applied on a consistent basis as in effect from time to time.

“**General Partner**” means Spirit General OP Holdings, LLC, a Delaware limited liability company and the sole general partner of the Company.

“**Global Note Legend**” means the legend set forth in Section 3.2(f), which is required to be placed on all Global Notes issued under the Indenture.

“**Global Notes**” means, individually and collectively, each of the Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, issued in accordance with the Indenture.

“**Holders**” shall have the meaning ascribed thereto in Section 2.4.

“**Indenture**” means the Base Indenture, as supplemented by this Fourth Supplemental Indenture, and as further supplemented, amended or restated.

“**Independent Investment Banker**” means one of the Reference Treasury Dealers that we appoint to act as the Independent Investment Banker from time to time.

“**Indirect Participant**” means a Person who holds a beneficial interest in a Global Note through a Participant.

“**Initial Notes**” means the first \$500,000,000 aggregate principal amount of Notes issued under this Fourth Supplemental Indenture on the date hereof.

“**interest**” means, when used with reference to the Notes, any interest payable under the terms of the Notes.

“**Interest Payment Date**” shall have the meaning ascribed thereto in Section 2.4.

“**Make-Whole Premium**” means, with respect to any Note redeemed before the Par Call Date, the excess, if any, of (a) the sum of the present values of the remaining scheduled payments of principal and interest thereon (exclusive of interest accrued to the date of redemption) that would be due if the Notes matured on the Par Call Date, determined by discounting to the Redemption Date, on a semiannual basis, such principal and interest at the Treasury Rate plus 30 basis points; over (b) the principal amount of such Notes.

“**Non-Recourse Debt**” means Debt of a joint venture or Subsidiary of the Company (or an entity in which the Company is the general partner or managing member) that is directly or indirectly secured by real estate assets or other real estate-related assets (including Capital Stock) of the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower and is non-recourse to the Guarantor or any of

---

its Subsidiaries (other than pursuant to a Permitted Non-Recourse Guarantee and other than with respect to the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower); *provided further* that, if any such Debt is partially recourse to the Guarantor or any of its Subsidiaries (other than pursuant to a Permitted Non-Recourse Guarantee and other than with respect to the joint venture or Subsidiary of the Company (or entity in which the Company is the general partner or managing member) that is the borrower) and therefore does not meet the criteria set forth above, only the portion of such Debt that does meet the criteria set forth above shall constitute “Non-Recourse Debt.”

“**Note Guarantee**” means the Guarantee by the Guarantor of the Company’s obligations under the Indenture and the Notes, executed pursuant to the provisions of this Fourth Supplemental Indenture.

“**Notes**” has the meaning assigned to it in the preamble to the Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under the Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

“**Officer**” means the Chief Executive Officer, President, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer or any Assistant Treasurer, the Secretary or any Assistant Secretary, and any Vice President of the General Partner or the Guarantor, as applicable.

“**Officer’s Certificate**” means a certificate signed by any Officer of the General Partner on behalf of the Company or the Guarantor, as applicable.

“**Opinion of Counsel**” means a written opinion of legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Guarantor.

“**Par Call Date**” means October 15, 2029 (three months prior to the maturity date of the Notes).

“**Participant**” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and with respect to the Depository Trust Company, shall include Euroclear and Clearstream).

“**Permitted Encumbrances**” means leases, Encumbrances securing taxes, assessments and similar charges, mechanics liens and other similar Encumbrances.

“**Permitted Non-Recourse Guarantees**” means customary completion or budget guarantees, indemnities or other customary guarantees provided to lenders (including by means of separate indemnification agreements, carve-out guarantees or pledges of the equity interests in the borrower) under such Non-Recourse Debt in the ordinary course of business of the Guarantor or any of its Subsidiaries in financing transactions that are directly or indirectly secured by real estate assets or other real estate-related assets (including Capital Stock) of a joint venture or Subsidiary of the Company (or an entity in which the Company is the general partner or managing member), in each case that is the borrower in such financing, but is non-recourse to Guarantor or any of its other Subsidiaries, except for such completion or budget guarantees, indemnities or other guarantees (including by means of separate indemnification agreements or carve-out guarantees or pledges of the equity interests in the borrower) as are consistent with customary industry practice (such as environmental indemnities and recourse triggers based on violation of transfer restrictions and other customary exceptions to non-recourse liability).



---

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

“**Primary Treasury Dealer**” shall have the meaning ascribed thereto in the definition of “Reference Treasury Dealer.”

“**Record Date**” shall have the meaning ascribed thereto in Section 2.4.

“**Redemption Date**” means, with respect to any Note or portion thereof to be redeemed in accordance with the provisions of Section 4.1, the date fixed for such redemption in accordance with the provisions of Section 4.1.

“**Redemption Price**” shall have the meaning ascribed thereto in Section 4.1.

“**Reference Treasury Dealer**” means, (1) each of J.P. Morgan Securities LLC, BofA Securities, Inc. and RBC Capital Markets, LLC and their respective successors and (2) one primary U.S. Government securities dealer (a “Primary Treasury Dealer”) selected by SunTrust Robinson Humphrey, Inc. and its successors, and three other firms that are Primary Treasury Dealers which we specify from time to time; *provided, however*, that if any of them ceases to be a Primary Treasury Dealer, we will substitute another Primary Treasury Dealer.

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

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

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

“**Significant Subsidiary**” shall have the meaning ascribed thereto in Section 7.1.

“**Subsidiary**” means, with respect to any Person, (i) a corporation, partnership, joint venture, limited liability company or other entity the majority of the shares, if any, of the non-voting capital stock or other equivalent ownership interests of which (except directors’ qualifying shares) are at the time directly or indirectly owned by such Person and/or any other Subsidiary or Subsidiaries of such Person, and the majority of the shares of the voting capital stock or other equivalent ownership interests of which (except directors’ qualifying shares) are at the time directly or indirectly owned by such Person and/or any other Subsidiary or Subsidiaries of such Person, and (ii) any other entity the accounts of which are consolidated with the accounts of such Person. For the purposes of this definition, “voting capital stock” means capital stock having voting power for the election of directors, whether at all times or only so long as no senior class of capital stock has such voting power by reason of any contingency.

---

**“Total Assets”** means, as of any date, the sum of (i) Undepreciated Real Estate Assets and (ii) all of the Guarantor’s and its Subsidiaries’ other assets, but excluding accounts receivable, right-of-use operating lease assets and non-real estate intangibles, determined in accordance with GAAP.

**“Total Unencumbered Assets”** means the sum of the Guarantor’s and its Subsidiaries’ Undepreciated Real Estate Assets and the value determined in accordance with GAAP of all of the Guarantor’s and its Subsidiaries’ other assets, other than accounts receivable and non-real estate intangibles, in each case not subject to an Encumbrance; *provided, however*, that “Total Unencumbered Assets” does not include investments in unconsolidated joint ventures, unconsolidated limited partnerships, unconsolidated limited liability companies and other unconsolidated entities.

**“Treasury Rate”** means, with respect to any Redemption Date, the rate per year equal to: (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15” or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue; *provided* that, if no maturity is within three months before or after the remaining term of the Notes to be redeemed, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Treasury Rate shall be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month; or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date. The Treasury Rate shall be calculated on the third Business Day preceding the Redemption Date. In the case of a satisfaction and discharge, such rates shall be determined as of the date of the deposit with the Trustee.

**“Undepreciated Real Estate Assets”** as of any date means the cost (original cost plus capital improvements) of real estate assets of the Guarantor and its Subsidiaries on such date, before depreciation and amortization charges determined on a consolidated basis in accordance with GAAP.

**“Uniform Fraudulent Conveyance Act”** means any applicable federal, provincial or state fraudulent conveyance legislation and any successor legislation.

**“Uniform Fraudulent Transfer Act”** means any applicable federal, provincial or state fraudulent transfer legislation and any successor legislation.

**“Unsecured Debt”** means Debt of the types described in clauses (a) and (c) of the definition thereof that is not secured by any mortgage, pledge, lien, charge, encumbrance or security interest of any kind upon any of the properties of the Guarantor or any of its Subsidiaries.

## ARTICLE II.

### TERMS OF THE SECURITIES

#### **Section 2.1 Title of the Securities.**

There shall be a Series of Securities designated the “3.400% Notes due 2030.”

#### **Section 2.2 Price.**

The Initial Notes shall be issued at a public offering price of 99.770% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.

#### **Section 2.3 Limitation on Initial Aggregate Principal Amount; Further Issuances.**

The aggregate principal amount of the Notes initially shall be limited to \$500,000,000. The Company may, without notice to or consent of the Holders, issue Additional Notes from time to time in the future in an unlimited principal amount, subject to compliance with the terms of the Indenture.

Nothing contained in this Section 2.3 or elsewhere in this Fourth Supplemental Indenture, or in the Notes, is intended to or shall limit execution by the Company or authentication or delivery by the Trustee of Notes under the circumstances contemplated by Sections 2.7, 2.8, 2.11, 3.6 or 9.6 of the Base Indenture.

#### **Section 2.4 Interest and Interest Rates; Stated Maturity of Notes.**

(a) The Notes shall bear interest at the rate of 3.400% per year. Interest on the Notes will accrue from September 16, 2019 and will be payable semi-annually in arrears on January 15 and July 15 of each year, commencing on January 15, 2020 (each such date being an **“Interest Payment Date”**), to the persons (the **“Holders”**) in whose names the Notes are registered in the security register on the preceding January 1 or July 1, whether or not a Business Day, as the case may be (each such date being a **“Record Date”**). Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months.

(b) If any Interest Payment Date, Stated Maturity or Redemption Date falls on a day that is not a Business Day, the required payment shall be made on the next Business Day as if it were made on the date the payment was due and no interest shall accrue on the amount so payable for the period from and after that Interest Payment Date, Stated Maturity or Redemption Date, as the case may be, until the next Business Day.

(c) The Stated Maturity of the Notes shall be January 15, 2030.

---

## Section 2.5 Method of Payment.

Principal, premium, if any, and interest shall be payable at the corporate trust office of the Trustee, initially located at 100 Wall Street, 16th Floor, New York, New York 10005. The Company shall pay interest (i) on any Notes in certificated form by check mailed to the address of the person entitled thereto; *provided, however*, that a Holder of any Notes in certificated form in the aggregate principal amount of more than \$2,000,000 may specify by written notice to the Company (with a copy to the Trustee) that it pay interest by wire transfer of immediately available funds to the account specified by the Holder in such notice, or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depository or its nominee. Any interest on any Note which is payable, but is not punctually paid or duly provided for, on any January 15 or July 15 (herein called “**Defaulted Interest**”) shall forthwith cease to be payable to the Holder registered as such on the relevant Record Date, and such Defaulted Interest shall be paid by the Company, at its election in each case, as provided in Clause (i) or (ii) below:

(a) The Company may elect to make payment of any Defaulted Interest to the persons in whose names the Notes are registered at 5:00 p.m., New York City time, on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 calendar days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall be not more than 15 calendar days and not less than 10 calendar days prior to the date of the proposed payment, and not less than 10 calendar days after the receipt by the Trustee of the notice of the proposed payment (unless the Trustee shall consent to an earlier date). The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be sent to each Holder at its address as it appears in the register, not less than 10 calendar days prior to such special record date (unless, the Trustee shall consent to an earlier date). Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been so mailed, such Defaulted Interest shall be paid to the persons in whose names the Notes are registered at 5:00 p.m., New York City time, on such special record date and shall no longer be payable pursuant to the following Clause (ii) of this Section 2.5.

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

---

**Section 2.6 Currency.**

Principal and interest on the Notes shall be payable in U.S. Dollars.

**Section 2.7 Additional Notes.**

The Company will be entitled, upon delivery of an Officer's Certificate, Opinion of Counsel and Authentication Order, subject to its compliance with Section 6.1, to issue Additional Notes under the Indenture that will have identical terms to the Initial Notes issued on the date of the Indenture other than with respect to the date of issuance and issue price; provided, however, that if such Additional Notes will not be fungible with the Initial Notes for U.S. federal income tax purposes, such additional notes will have a separate CUSIP number.

With respect to any Additional Notes, the Company will set forth in a resolution of the board of managers of the General Partner acting on behalf of the Company and an Officer's Certificate, a copy of each of which will be delivered to the Trustee, the following information:

- (a) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to the Indenture; and
- (b) the issue price, the issue date and the CUSIP number of such Additional Notes.

**Section 2.8 Redemption.**

The Notes may be redeemed at the option of the Company prior to the Stated Maturity as provided in Article IV.

**Section 2.9 No Sinking Fund.**

The provisions of Article XI of the Base Indenture shall not be applicable to the Notes.

**Section 2.10 Registrar and Paying Agent.**

The Trustee shall initially serve as Registrar and Paying Agent for the Notes.

**ARTICLE III.****FORM OF THE SECURITIES****Section 3.1 Global Form.**

The Notes shall initially be issued in the form of one or more permanent Global Notes. The Notes shall not be issuable in definitive form except as provided in Section 3.2(a) of this Fourth Supplemental Indenture. The Notes and the Trustee's certificate of authentication shall be substantially in the form attached as Exhibit A hereto. The Company shall execute and the Trustee shall, in accordance with Section 2.3 of the Base Indenture, authenticate and hold each Global Note as custodian for the Depositary. Each Global Note will represent such of the

---

outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby will be made by the Registrar or the custodian, at the direction of the Trustee. The terms and provisions contained in the form of Note attached as Exhibit A hereto shall constitute, and are hereby expressly made, a part of the Indenture and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Fourth Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby.

### **Section 3.2 Transfer and Exchange.**

(a) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary; or

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) upon request from the Depositary if there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.8 and 2.11 of the Base Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 3.2 or Section 2.8 and 2.11 of the Base Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 3.2(a); however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 3.2(b) or (c).

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of the Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 3.2(b)(1).

---

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 3.2(b)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

both:

(A) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(B) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

both:

(C) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

(D) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (b)(1) above.

Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Fourth Supplemental Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 3.2(g).

(c) *Transfer and Exchange of Beneficial Interests in Global Notes for Definitive Notes.* If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 3.2(b)(2), the Trustee will cause the aggregate principal amount of

---

the applicable Global Note to be reduced accordingly pursuant to Section 3.2(g) hereof, and the Company will execute and, upon the receipt of an Authentication Order, the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 3.2(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depository and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

(d) *Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes.* A Holder of a Definitive Note may exchange such Note for a beneficial interest in a Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Global Notes. If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to the previous sentence at a time when a Global Note has not yet been issued, the Company will issue and, upon receipt of an Authentication Order in accordance with Section 3.2, the Trustee will authenticate one or more Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 3.2(e), the Registrar will register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 3.2(e). A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Definitive Notes pursuant to the instructions from the Holder thereof.

(f) *Legend.* Each Global Note issued under the Indenture, unless specifically stated otherwise in the applicable provisions of the Indenture, will bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 3.2 OF THE FOURTH SUPPLEMENTAL INDENTURE, (2) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART



---

PURSUANT TO SECTION 3.2(a) OF THE FOURTH SUPPLEMENTAL INDENTURE, (3) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE BASE INDENTURE AND (4) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF SPIRIT REALTY, L.P. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(g) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note will be returned to or retained and canceled by the Trustee in accordance with in accordance with Section 2.12 of the Base Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Company will execute and the Trustee will authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order or at the Registrar’s request.

---

(2) No service charge will be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.11 and 9.6 of the Base Indenture and Section 4.3 of this Fourth Supplemental Indenture).

(3) The Registrar will not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under the Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) Neither the Registrar nor the Company will be required:

(A) to issue, to register the transfer of or to exchange any Note during a period beginning at the opening of business fifteen days before any selection of Notes for redemption under Article IV and ending at the close of business on the earliest date on which the relevant notice of redemption is deemed to have been given to all Holders of Notes to be so redeemed; or

(B) to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee will authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 3.1 hereof.

(8) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 3.2 to effect a registration of transfer or exchange may be submitted by facsimile.

---

## ARTICLE IV.

### REDEMPTION OF NOTES

The provisions of Article III of the Base Indenture, as amended by the provisions of this Fourth Supplemental Indenture, shall apply to the Notes.

#### Section 4.1 Optional Redemption of Notes.

The Notes will be redeemable in whole at any time or in part from time to time, at the Company's option, at a redemption price (the "**Redemption Price**") calculated by the Company and equal the sum of (1) 100% of the principal amount of the Notes to be redeemed plus accrued and unpaid interest, up to, but not including, the Redemption Date plus (2) a Make-Whole Premium; *provided* that if the Redemption Date falls after a Record Date and on or prior to the corresponding Interest Payment Date, the Company will pay the full amount of accrued and unpaid interest, if any, on such Interest Payment Date to the Holder of record at the close of business on the corresponding Record Date (instead of the Holder surrendering its Notes for redemption) and the Redemption Price shall not include accrued and unpaid interest up to, but not including, the Redemption Date. Notwithstanding the foregoing, if the Notes are redeemed on or after October 15, 2029, the Redemption Price will not include a Make-Whole Premium.

#### Section 4.2 Notice of Optional Redemption, Selection of Notes.

(a) In case the Company shall desire to exercise the right to redeem all or, as the case may be, any part of the Notes pursuant to Section 4.1, it shall fix a date for redemption and it or, at its written request received by the Trustee not fewer than five Business Days prior (or such shorter period of time as may be acceptable to the Trustee) to the date the notice of redemption is to be sent, the Trustee in the name of and at the expense of the Company, shall mail or cause to be mailed, or sent by electronic transmission, a notice of such redemption not fewer than fifteen calendar days but not more than sixty calendar days prior to the Redemption Date to each Holder of Notes to be redeemed at its last address as the same appears on the Register; *provided* that if the Company makes such request of the Trustee, it shall, together with such request, also give written notice of the Redemption Date to the Trustee, *provided further* that the text of the notice shall be prepared by the Company. Such mailing shall be by first class mail or by electronic transmission. The notice, if sent in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or electronic submission or any defect in the notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note.

(b) Each such notice of redemption shall specify: (i) the aggregate principal amount of Notes to be redeemed, (ii) the CUSIP number or numbers of the Notes being redeemed, (iii) the Redemption Date (which shall be a Business Day), (iv) the Redemption Price at which Notes are to be redeemed, (v) the place or places of payment and that payment will be made upon presentation and surrender of such Notes and (vi) that interest accrued and unpaid to, but excluding, the Redemption Date will be paid as specified in said notice, and that on and after said date interest thereon or on the portion thereof to be redeemed will cease to accrue. If fewer

---

than all the Notes are to be redeemed, the notice of redemption shall identify the Notes to be redeemed (including CUSIP numbers, if any). In case any Note is to be redeemed in part only, the notice of redemption shall state the portion of the principal amount thereof to be redeemed and shall state that, on and after the Redemption Date, upon surrender of such Note, a new Note or Note in principal amount equal to the unredeemed portion thereof will be issued.

(c) On or prior to the Redemption Date specified in the notice of redemption given as provided in this Section 4.2, the Company will deposit with the Paying Agent (or, if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 2.5 of the Base Indenture) an amount of money in immediately available funds sufficient to redeem on the Redemption Date all the Notes (or portions thereof) so called for redemption at the appropriate Redemption Price; *provided* that if such payment is made on the Redemption Date, it must be received by the Paying Agent, by 11:00 a.m., New York City time, on such date. The Company shall be entitled to retain any interest, yield or gain on amounts deposited with the Paying Agent pursuant to this Section 4.2 in excess of amounts required hereunder to pay the Redemption Price.

(d) If less than all of the outstanding Notes are to be redeemed, the Trustee will select, in a manner it deems fair and appropriate, subject to Applicable Procedures, the Notes or portions thereof of the Global Notes or the Notes in certificated form to be redeemed (in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof). The Notes (or portions thereof) so selected for redemption shall be deemed duly selected for redemption for all purposes hereof.

#### **Section 4.3 Payment of Notes Called for Redemption by the Company.**

(a) If notice of redemption has been given as provided in Section 4.2, the Notes or portion of Notes with respect to which such notice has been given shall become due and payable on the Redemption Date and at the place or places stated in such notice at the Redemption Price, and unless the Company defaults in the payment of the Redemption Price, (i) interest will cease to accrue on any Notes called for redemption at the Redemption Date, (ii) on and after the Redemption Date (unless the Company defaults in the payment of the Redemption Price) such Notes shall cease to be entitled to any benefit or security under the Indenture and (iii) the Holders thereof shall have no right in respect of such Notes except the right to receive the Redemption Price thereof. On presentation and surrender of such Notes at a place of payment in said notice specified, the said Notes or the specified portions thereof shall be paid and redeemed by the Company at the Redemption Price, together with interest accrued thereon to, but excluding, the Redemption Date.

(b) Upon presentation of any Note redeemed in part only, the Company shall execute and the Trustee shall authenticate and make available for delivery to the Holder thereof, at the expense of the Company, a new Note or Notes, of authorized denominations, in principal amount equal to the unredeemed portion of the Notes so presented.

---

**ARTICLE V.**

**GUARANTEE**

**Section 5.1 Note Guarantee.**

(a) Subject to this Article 5, the Guarantor hereby unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, that:

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

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

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

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

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

(d) The Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. The Guarantor further agrees that, as between the Guarantor, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the

---

obligations guaranteed hereby may be accelerated as provided in Article VII for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article VII, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantor for the purpose of this Note Guarantee.

**Section 5.2 Execution and Delivery of Note Guarantee.**

To evidence its Note Guarantee set forth in Section 5.01, the Guarantor hereby agrees that this Fourth Supplemental Indenture will be executed on its behalf by one of its Officers. If an Officer whose signature is on this Fourth Supplemental Indenture no longer holds that office at the time the Trustee authenticates the Note on which the Note Guarantee is endorsed, the Note Guarantee will be valid nevertheless. The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Fourth Supplemental Indenture on behalf of the Guarantor.

**Section 5.3 Limitation of Guarantor's Liability.**

The Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of the Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to the Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantor hereby irrevocably agree that the obligations of the Guarantor will be limited to the maximum amount that will not, after giving effect to all other contingent and fixed liabilities of the Guarantor that are relevant under such laws, result in the obligations of the Guarantor under its Note Guarantee constituting a fraudulent transfer or conveyance.

**Section 5.4 Application of Certain Terms and Provisions to the Guarantor.**

(a) For purposes of any provision of the Indenture which provides for the delivery by the Guarantor of an Officer's Certificate and/or an Opinion of Counsel, the definitions of such terms in Section 1.2 shall apply to the Guarantor as if references therein to the Company or the Guarantor, as applicable, were references to the Guarantor.

(b) Any notice or demand which by any provision of the Indenture is required or permitted to be given or served by the Trustee or by the Holders of Notes to or on the Guarantor may be given or served as described in Section 10.2 of the Base Indenture as if references therein to the Company were references to the Guarantor.

(c) Upon any demand, request or application by the Guarantor to the Trustee to take any action under the Indenture, the Guarantor shall furnish to the Trustee such Officer's Certificate and Opinion of Counsel as are required in Section 10.1 as if all references therein to the Company were references to the Guarantor.

---

ARTICLE VI.

ADDITIONAL COVENANTS

The following additional covenants shall apply with respect to the Notes so long as any of the Notes remain outstanding:

**Section 6.1 Limitations on Incurrence of Debt.**

(a) *Aggregate Debt Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds of the additional Debt on a pro forma basis, the aggregate principal amount of all the Guarantor's outstanding Debt and that of its Subsidiaries on a consolidated basis as determined in accordance with GAAP is greater than 60% of the sum of (without duplication):

(1) the Guarantor's Total Assets as of the end of the fiscal quarter covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to the incurrence of such additional Debt; and

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by the Guarantor or any of its Subsidiaries since the end of such fiscal quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

(b) *Debt Service Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Service Charge for the most recent quarterly period covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to such time, annualized (*i.e.*, multiplied by four) prior to the date on which such additional Debt is to be incurred shall have been less than 1.5, on a pro forma basis after giving effect thereto and to the application of the proceeds therefrom, and calculated on the assumption that:

(1) such Debt and any other Debt incurred by the Guarantor or its Subsidiaries since the first day of such quarterly period and the application of the proceeds therefrom, including to refinance other Debt since the first day of such period, had occurred at the beginning of such period;

(2) the repayment or retirement of any other Debt (other than Debt repaid or retired with the proceeds of any other Debt, which repayment or retirement shall be calculated pursuant to Section 6.1(b)(1) and not to this Section 6.1(b)(2)) by the Guarantor or its Subsidiaries since the first day of such

---

quarterly period had been repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility, line of credit or similar facility shall be computed based upon the average daily balance of such Debt during such period);

(3) in the case of Acquired Debt or Debt incurred by the Guarantor or any of its Subsidiaries in connection with any acquisition since the first day of such quarterly period, the related acquisition had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation; and

(4) in the case of any acquisition or disposition by the Guarantor or any of its Subsidiaries of any asset or group of assets since the first day of such quarterly period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition and any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such pro forma calculation.

If the Debt giving rise to the need to make the calculation described in this Section 6.1 or any other Debt incurred after the first day of the relevant quarterly period bears interest at a floating rate (to the extent such Debt has been hedged to bear interest at a fixed rate, only the portion of such Debt, if any, that has not been so hedged), then, for purposes of calculating the Annual Debt Service Charge, the interest rate on such Debt will be computed on a pro forma basis as if the average interest rate that would have been in effect during the entire such period had been the applicable rate for the entire such period.

(c) *Maintenance of Total Unencumbered Assets.* The Guarantor and its Subsidiaries may not at any time own Total Unencumbered Assets equal to less than 150% of the aggregate outstanding principal amount of the Unsecured Debt of the Guarantor and its Subsidiaries on a consolidated basis.

(d) *Secured Debt Test.* The Guarantor will not, and will not permit any of its Subsidiaries to, incur any Debt secured by any mortgage, lien, charge, pledge, encumbrance or security interest upon any of the Guarantor's property or the property of any of its Subsidiaries, whether owned at the date hereof or hereafter acquired, if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds thereof, the aggregate principal amount of all of the Guarantor's outstanding Debt and the outstanding Debt of its Subsidiaries on a consolidated basis for borrowed money that is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on the Guarantor's property or the property of any of its Subsidiaries is greater than 40% of the sum of (without duplication):

(1) the Guarantor's Total Assets as of the end of the fiscal quarter covered in the Guarantor's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, furnished to the Trustee) prior to the incurrence of such additional Debt; and



---

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by the Guarantor or any of its Subsidiaries since the end of such fiscal quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

For purposes of this Section 6.1, Debt shall be deemed to be “incurred” by the Guarantor or any of its Subsidiaries whenever the Guarantor or such Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof. Furthermore, nothing in the covenants described under this Section 6.1 shall prevent the incurrence by the Guarantor or any of its Subsidiaries of Debt between or among the Guarantor or any of its Subsidiaries.

**Section 6.2 Existence.**

Except as permitted below, the Guarantor will do or cause to be done all things necessary to preserve and keep in full force and effect the existence, rights, both charter and statutory, and franchises of the Guarantor and its Subsidiaries; *provided, however*, that the Guarantor will not be required to preserve any right or franchise if the Guarantor determines that the preservation of the right or franchise is no longer desirable in the conduct of the Guarantor’s business and that the loss of the right or franchise is not disadvantageous in any material respect to the Holders of the Notes.

**Section 6.3 Merger, Consolidation or Sale.**

The Company and the Guarantor may consolidate with, or sell, lease or convey all or substantially all of our respective assets to, or merge with or into, any other entity, *provided* that the following conditions are met:

(a) the Company or the Guarantor, as the case may be, shall be the continuing entity, or the successor entity (if other than Company or the Guarantor, as the case may be) formed by or resulting from any consolidation or merger or which shall have received the transfer of assets shall expressly assume payment of principal of, and premium, if any, and interest, on, all of the Notes and the due and punctual performance and observance of all of the covenants and conditions in the Indenture;

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

(c) an Officer’s Certificate covering these conditions shall be delivered to the Trustee.

In the case of any such consolidation, sale, conveyance or merger, but not a lease, in a transaction in which there is a successor entity, the successor entity will succeed to, and be substituted for, the Company or the Guarantor, as the case may be, under the Indenture and, subject to the terms of the Indenture, the Company or the Guarantor, as the case may be, will be released from their respective obligations under the Indenture.

---

#### **Section 6.4 Payment of Taxes and Other Claims.**

The Guarantor will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all taxes, assessments and governmental charges levied or imposed upon the Guarantor or any of its Subsidiaries or upon the Guarantor's or any such Subsidiary's income, profits or property and all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the Guarantor's or any such Subsidiary's property; *provided, however*, that the Guarantor will not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

#### **Section 6.5 Provision of Financial Information.**

Whether or not we or the Guarantor is subject to Section 13 or 15(d) of the Exchange Act, the Guarantor will, to the extent permitted under the Exchange Act, file with the SEC the annual reports, quarterly reports and other documents that the Guarantor would have been required to file with the SEC pursuant to such Section 13 or 15(d) (the "**Financial Statements**") if the Guarantor were so subject, such documents to be filed with the SEC on or prior to the respective dates (the "**Required Filing Dates**") by which the Guarantor would have been required so to file such documents if the Guarantor were so subject.

The Guarantor will also in any event (1) within 15 days of each Required Filing Date (a) transmit by mail or electronic transmittal to all Holders, as their names and addresses appear in the security register, without cost to such Holders, copies of the annual reports, quarterly reports and other documents that the Guarantor is required to file or would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if the Guarantor were subject to such sections, and (b) furnish to the Trustee copies of annual reports, quarterly reports and other documents that the Guarantor would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if the Guarantor were subject to such sections; *provided* that the foregoing transmittal and furnishing requirements will be deemed satisfied if the foregoing reports and documents are available on the SEC's EDGAR system or on the Guarantor's website within the applicable time period specified above, and (2) if filing such documents by the Guarantor with the SEC is not permitted under the Exchange Act, promptly upon written request and payment of the reasonable cost of duplication and delivery, supply copies of such documents to any prospective Holder. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including our compliance with any of the covenants thereunder (as to which the Trustee is entitled to rely conclusively on an Officer's Certificate). The Trustee shall have no liability or responsibility for the filing, timeliness or content of any such report.

---

**Section 6.6 Maintenance of Properties.**

The Guarantor will cause all of its properties used or useful in the conduct of the Guarantor's business or the business of any of its Subsidiaries to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements of the Guarantor's and its Subsidiaries' properties, all as in the Guarantor's judgment may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; *provided, however*, that the Guarantor and its Subsidiaries will not be prevented from selling or otherwise disposing for value the Guarantor's or its Subsidiaries' properties in the ordinary course of business.

**Section 6.7 Insurance.**

The Guarantor will, and will cause each of its Subsidiaries to, keep in force upon all of its properties and operations policies of insurance carried with responsible companies in such amounts and covering all such risks as shall be customary in the industry in accordance with prevailing market conditions and availability.

**ARTICLE VII.****DEFAULTS AND REMEDIES**

Sections 7.1 and 7.2 hereof shall replace Sections 6.1 and 6.2 of the Base Indenture with respect to the Notes only.

**Section 7.1 Events of Default.**

“**Event of Default,**” wherever used herein or in the Base Indenture with respect to the Notes, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default for 30 days in the payment of any installment of interest under the Notes;
- (b) default in the payment of the principal amount or Redemption Price due with respect to the Notes, when the same becomes due and payable;
- (c) the Guarantee is not (or is claimed by the Guarantor in writing to the Trustee not to be) in full force and effect (other than in accordance with the terms of the Indenture) with respect to the Notes;
- (d) failure by the Company or the Guarantor to comply with any of the Company's or the Guarantor's respective other agreements in the Notes or this Fourth Supplemental Indenture with respect to the Notes upon receipt by the Company of notice of such default by the Trustee or by Holders of not less than 25% in aggregate principal amount of the Notes then outstanding and the Company's failure to cure (or obtain a waiver of) such default within 60 days after it receives such notice;

- 
- (e) failure to pay any Debt (other than Non-Recourse Debt) (a) of the Company's or the Guarantor's, any Subsidiary in which the Company or the Guarantor has invested at least \$50,000,000 in capital (a "Significant Subsidiary") or any entity in which the Company is the general partner or managing member, and (b) in an outstanding principal amount in excess of \$50,000,000 at final maturity or upon acceleration after the expiration of any applicable grace period, which Debt is not discharged, or such default in payment or acceleration is not cured or rescinded, within 60 days after written notice to the Company from the Trustee (or to the Company and the Trustee from Holders of at least 25% in principal amount of the Notes then outstanding); or
- (f) the Company, the Guarantor or any Significant Subsidiary pursuant to or under or within meaning of any Bankruptcy Law:
- (i) commences a voluntary case or proceeding seeking liquidation, reorganization or other relief with respect to the Company, the Guarantor or a Significant Subsidiary or its debts or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary; or
  - (ii) consents to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against the Company, the Guarantor or a Significant Subsidiary; or
  - (iii) consents to the appointment of a custodian of it or for all or substantially of its property; or
  - (iv) makes a general assignment for the benefit of creditors; or
- (g) an involuntary case or other proceeding shall be commenced against the Company, the Guarantor or any Significant Subsidiary seeking liquidation, reorganization or other relief with respect to the Company, the Guarantor or a Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty (30) calendar days; or
- (h) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that
- (i) is for relief against the Company, the Guarantor or any of Significant Subsidiary in an involuntary case or proceeding;
  - (ii) appoints a trustee, receiver, liquidator, custodian or other similar official of the Company, the Guarantor or a Significant Subsidiary or any substantial part of the property of the Company, the Guarantor or a Significant Subsidiary; or
  - (iii) orders the liquidation of the Company, the Guarantor or a Significant Subsidiary;

---

, in each case in this Clause (g), the order or decree remains unstayed and in effect for thirty (30) calendar days.

The term “Bankruptcy Law” means title 11, U.S. Code or any similar Federal or State law for the relief of debtors.

**Section 7.2 Acceleration of Maturity; Rescission and Annulment.**

If an Event of Default with respect to the Notes at the time outstanding occurs and is continuing (other than an Event of Default referred to in Sections 7.1(f), 7.1(g) or 7.1(h), which shall result in an automatic acceleration), then in every such case the Trustee or the Holders of not less than 25% in principal amount of the outstanding Notes may declare the principal amount of and accrued and unpaid interest, if any, on all of the outstanding Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders) , and upon any such declaration such principal amount (or specified amount) and accrued and unpaid interest, if any, shall become immediately due and payable. If an Event of Default specified in Sections 7.1(f), 7.1(g) or 7.1(h) shall occur, the principal amount (or specified amount) of and accrued and unpaid interest, if any, on all outstanding Notes shall automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

At any time after the principal amount of and premium, if any, and interest on the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, Holders of a majority in aggregate principal amount of the Notes then outstanding on behalf of the Holders of all of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default and rescind and annul such declaration and its consequences, subject in all respects to Section 6.13 of the Base Indenture, if: (a) the Company or the Guarantor has deposited with the Trustee all required payments of the principal of, and premium, if any, and interest on, the Notes, plus the reasonable compensation and reimbursement for the Trustee’s expenses, disbursements and advances pursuant to Section 7.7 of the Base Indenture; and (b) all Events of Default, other than the non-payment of accelerated principal of (or specified portion thereof), or premium, if any, and interest on, the Notes that have become due solely because of such acceleration, have been cured or waived. No such rescission and annulment shall extend to or shall affect any subsequent default or Event of Default, or shall impair any right consequent thereon. The Company shall notify in writing a Responsible Officer of the Trustee, promptly upon becoming aware thereof, of any Event of Default, as provided in Section 4.3 of the Base Indenture and the steps to be taken to cure such Event of Default.

**ARTICLE VIII.**

**AMENDMENTS AND WAIVERS**

Sections 8.1 and 8.2 hereof shall replace Sections 9.1 and 9.2 of the Base Indenture with respect to the Notes only.

---

### Section 8.1 Without Consent of Holders.

The Company, when authorized by resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental without the consent of the Holders of the Notes hereto for one or more of the following purposes:

- (a) to cure any ambiguity, defect or inconsistency in the Indenture; *provided* that this action shall not adversely affect the interests of the Holders of the Notes in any material respect;
- (b) to evidence a successor to the Company as obligor or to the Guarantor as guarantor under the Indenture;
- (c) to make any change that does not adversely affect the interests of the Holders of any Notes then outstanding;
- (d) to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture;
- (e) to provide for the acceptance of appointment of a successor Trustee or facilitate the administration of the trusts under the Indenture by more than one Trustee;
- (f) to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA;
- (g) to reflect the release of the Guarantor as guarantor, in accordance with the Indenture;
- (h) to secure the Notes;
- (i) to add guarantors with respect to the Notes; and
- (j) to conform the text of the Indenture, any Guarantee or the Notes to any provision of the description thereof set forth in the Prospectus to the extent that such provision in the Prospectus was intended to be a verbatim recitation of a provision of the Indenture, such Note Guarantee or the Notes (as certified in an Officer's Certificate).

Upon the written request of the Company, accompanied by a copy of the resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, in each case, certified by the corresponding Secretary or Assistant Secretary, authorizing the execution of any supplemental indenture, the Trustee is hereby authorized to join with the Company and the Guarantor in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations that may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture that affects the Trustee's own rights, duties or immunities under the Indenture or otherwise.

---

Any supplemental indenture authorized by the provisions of this Section 8.1 may be executed by the Company, the Guarantor and the Trustee without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 8.2.

**Section 8.2 With Consent of Holders.**

With the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, the Company, the Guarantor and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or any supplemental indenture or modifying in any manner the rights of the Holders of the Notes; *provided* that no such supplemental indenture shall, without the consent of the Holder of each Note so affected:

(a) reduce the principal amount of the Notes whose Holders must consent to an amendment, supplement or waiver; (e)

(b) reduce the rate of or extend the time for payment of interest (including default interest) on the Notes;

(c) reduce the principal of or premium, if any, on or change the Stated Maturity of the Notes;

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

(e) make the principal of or premium, if any, or interest on the Notes payable in any currency other than that stated in the Notes;

(f) make any change in Section 6.8 of the Base Indenture, 6.13 of the Base Indenture or Section 8.2(f) of this Fourth Supplemental Indenture (this sentence);

(g) waive a redemption payment with respect to the Notes; or

(h) release the Guarantor other than as provided in the Indenture or modify the Guarantee in any manner adverse to the Holders.

Upon the written request of the Company, accompanied by a copy of the resolutions of the board of managers of the General Partner and the board of directors of the Guarantor, in each case, certified by the corresponding Secretary or Assistant Secretary, authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Holders as aforesaid, the Trustee shall join with the Company and the Guarantor in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under the Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture. In executing or accepting the additional trusts created by, any supplemental indenture

---

permitted by this Article or the modification thereby of the trusts created by the Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel or an Officer's Certificate or both stating that the execution of such supplemental indenture is authorized or permitted by the Indenture, that all conditions precedent to the execution of such supplemental indenture have been complied with, and that the supplemental indenture is a legal, valid and binding obligation of the Company and the Guarantor as applicable, enforceable against it in accordance with its terms.

It shall not be necessary for the consent of the Holders under this Section 8.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

## ARTICLE IX.

### MEETINGS OF HOLDERS OF NOTES

#### **Section 9.1 Purposes for Which Meetings May Be Called.**

A meeting of Holders may be called at any time and from time to time pursuant to this Article IX to make, give or take any request, demand, authorization, direction, notice, consent, waiver or other act provided by the Indenture to be made, given or taken by Holders.

#### **Section 9.2 Call, Notice and Place of Meetings.**

(a) The Trustee may at any time call a meeting of Holders for any purpose specified in Section 9.1, to be held at such time and at such place in The City of New York, New York as the Trustee shall determine. Notice of every meeting of Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 10.2 of the Base Indenture, not less than 21 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, the Guarantor or the Holders of at least 10% in principal amount of the outstanding Notes shall have requested the Trustee to call a meeting of the Holders for any purpose specified in Section 9.1, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed notice of or made the first publication of the notice of such meeting within 21 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company, the Guarantor, if applicable, or the Holders in the amount above specified, as the case may be, may determine the time and the place in the City of New York, New York, for such meeting and may call such meeting for such purposes by giving notice thereof as provided in Clause (a) of this Section 9.2.

#### **Section 9.3 Persons Entitled to Vote at Meetings.**

To be entitled to vote at any meeting of Holders, a person shall be (a) a Holder of one or more outstanding Notes, or (b) a person appointed by an instrument in writing as proxy for a Holder or Holders of one or more outstanding Notes by such Holder or Holders; *provided*, that none of the Company, any other obligor upon the Notes or any Affiliate of the Company shall be



---

entitled to vote at any meeting of Holders or be counted for purposes of determining a quorum at any such meeting in respect of any Notes owned by such persons. The only persons who shall be entitled to be present or to speak at any meeting of Holders shall be the persons entitled to vote at such meeting and their counsel, any representatives of the Trustee and its counsel, any representatives of the Guarantor and its counsel and any representatives of the Company and its counsel.

#### **Section 9.4 Quorum; Action.**

The persons entitled to vote a majority in principal amount of the outstanding Notes shall constitute a quorum for a meeting of Holders; *provided, however*, that if any action is to be taken at the meeting with respect to a consent or waiver which may be given by the Holders of not less than a specified percentage in principal amount of the outstanding Notes, the persons holding or representing the specified percentage in principal amount of the outstanding Notes will constitute a quorum. In the absence of a quorum within 30 minutes after the time appointed for any such meeting, the meeting shall, if convened at the request of Holders, be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in Section 9.2, except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage, as provided above, of the principal amount of the outstanding Notes which shall constitute a quorum.

Except as limited by the proviso to Section 8.2, any resolution presented at a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted only by the affirmative vote of the Holders of a majority in principal amount of the outstanding Notes; *provided, however*, that, except as limited by the proviso to Section 8.2, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action which the Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority, in principal amount of the outstanding Notes may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the Holders of such specified percentage in principal amount of the outstanding Notes. Any such resolution passed or decision taken at any meeting of Holders duly held in accordance with this Section 9.4 shall be binding on all the Holders, whether or not such Holders were present or represented at the meeting.

#### **Section 9.5 Determination of Voting Rights; Conduct and Adjournment of Meetings.**

(a) Notwithstanding any other provisions of the Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders in regard to proof of the holding of Notes and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate.

---

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 9.2(b), in which case the Company, the Guarantor or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the persons entitled to vote a majority in principal amount of the outstanding Notes of such series represented at the meeting.

(c) At any meeting, each Holder or proxy shall be entitled to one vote for each \$1,000 principal amount of Notes held or represented by him; *provided, however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote, except as a Holder or proxy.

(d) Any meeting of Holders duly called pursuant to Section 9.2 at which a quorum is present may be adjourned from time to time by persons entitled to vote a majority in principal amount of the outstanding Notes represented at the meeting; and the meeting may be held as so adjourned without further notice.

#### **Section 9.6 Counting Votes and Recording Action of Meetings.**

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the principal amounts and serial numbers of the outstanding Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 9.2 and, if applicable, Section 9.4. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and the Guarantor, and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

---

**ARTICLE X.**

**MISCELLANEOUS PROVISIONS**

**Section 10.1 Evidence of Compliance with Conditions Precedent, Certificates to Trustee.**

This Section 10.1 shall replace Sections 10.4 and 10.5 of the Base Indenture with respect to the Notes only.

Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of the Indenture, the Company shall furnish to the Trustee an Officer's Certificate in a form reasonably acceptable to the Trustee stating that all conditions precedent, if any, provided for in the Indenture relating to the proposed action have been complied with, and an Opinion of Counsel in a form reasonably acceptable to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with. The Officer's Certificate or Opinion of Counsel provided for in the Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in the Indenture shall include: (1) a statement that the person making such Officer's Certificate or Opinion of Counsel has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statement or opinion contained in such Officer's Certificate or Opinion of Counsel is based; (3) a statement that, in the opinion of such person, such person has made such examination or investigation as is necessary to enable such person to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with; *provided, however*, that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

**Section 10.2 No Recourse Against Others.**

This Section 10.2 shall replace Section 10.8 of the Base Indenture with respect to the Notes only.

Except as otherwise expressly provided in Article V of this Fourth Supplemental Indenture, no recourse for the payment of the principal of (including the Redemption Price upon redemption pursuant to Article IV) or premium, if any, or interest on any Note or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Fourth Supplemental Indenture or in any Note, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, partner, member, manager, employee, agent, officer, director or subsidiary, as such, past, present or future, of the Guarantor, the Company or any of the Company's Subsidiaries or of any successor thereto, either directly or through the Guarantor, the Company or any of the Company's Subsidiaries or any successor thereto, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Fourth Supplemental Indenture and the issue of the Notes.

**Section 10.3 Trust Indenture Act Controls.**

If any provision of this Fourth Supplemental Indenture limits, qualifies, or conflicts with another provision which is required or deemed to be included in this Fourth Supplemental Indenture by the TIA, such required or deemed provision shall control.

---

**Section 10.4 Governing Law.**

THIS FOURTH SUPPLEMENTAL INDENTURE AND THE NOTES, INCLUDING ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THE BASE INDENTURE, FOURTH SUPPLEMENTAL INDENTURE OR THE NOTES, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

**Section 10.5 Counterparts.**

This Fourth Supplemental Indenture may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. The exchange of copies of this Fourth Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Fourth Supplemental Indenture as to the parties hereto and may be used in lieu of the original Fourth Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

**Section 10.6 Successors.**

All agreements of the Company and the Guarantor in this Fourth Supplemental Indenture and the Notes shall bind their respective successors.

All agreements of the Trustee in this Fourth Supplemental Indenture shall bind its successor.

**Section 10.7 Severability.**

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

**Section 10.8 Table of Contents, Headings, Etc.**

The Table of Contents and headings of the Articles and Sections of this Fourth Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

**Section 10.9 Ratifications.**

The Base Indenture, as supplemented and amended by this Fourth Supplemental Indenture, is in all respects ratified and confirmed. The Indenture shall be read, taken and construed as one and the same instrument. All provisions included in this Fourth Supplemental Indenture with respect to the Notes supersede any conflicting provisions included in the Base Indenture unless not permitted by law. The Trustee accepts the trusts created by the Indenture, and agrees to perform the same upon the terms and conditions of the Indenture.

---

**Section 10.10 Effectiveness.**

The provisions of this Fourth Supplemental Indenture shall become effective as of the date hereof.

**Section 10.11 The Trustee.**

The Trustee accepts the trusts created by the Indenture, and agrees to perform the same upon the terms and conditions of the Indenture. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Fourth Supplemental Indenture or the due execution thereof by the Company. The recitals contained herein shall be taken as the statements solely of the Company, and the Trustee assumes no responsibility for the correctness thereof. If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), excluding any creditor relationship listed in TIA Section 311(b), the Trustee shall be subject to the provisions of the TIA regarding the collection of the claims against the Company (or any such other obligor). If the Trustee has or shall acquire a conflicting interest within the meaning of the TIA, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the TIA and the Indenture.

---

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Supplemental Indenture to be duly executed by their respective officers hereunto duly authorized, all as of the day and year first written above.

SPIRIT REALTY, L.P.,  
as the Company

By: Spirit General OP Holdings, LLC  
Its Sole General Partner

By: /s/ Michael Hughes  
Name: Michael Hughes  
Title: Executive Vice President and  
Chief Financial Officer

SPIRIT REALTY CAPITAL, INC.,  
as the Guarantor

By: /s/ Michael Hughes  
Name: Michael Hughes  
Title: Executive Vice President and  
Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION, as the Trustee

By: /s/ Christopher J. Grell  
Name: Christopher J. Grell  
Title: Vice President

---

**EXHIBIT A**

**SPIRIT REALTY, L.P.**

THIS GLOBAL NOTE IS HELD BY THE DEPOSITORY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 3.2 OF THE FOURTH SUPPLEMENTAL INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 3.2 OF THE FOURTH SUPPLEMENTAL INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.12 OF THE BASE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITORY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

**SPIRIT REALTY, L.P.**

**3.400% NOTES DUE 2030**

**Certificate No.** [ ]

**CUSIP No.:** [ ]

**ISIN:** [ ]

**\$[ ]**

Spirit Realty, L.P., a Delaware limited partnership (herein called the “Company”, which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to Cede & Co., or its registered assigns, the principal sum

---

of [ ] MILLION DOLLARS (\$[ ])[, or such lesser amount as is set forth in the Schedule of Exchanges of Interests in the Global Note on the other side of this Note,] on January 15, 2030 at the office or agency of the Company maintained for that purpose in accordance with the terms of the Indenture, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay interest semi-annually in arrears on January 15 and July 15 of each year, commencing on January 15, 2020 to the Holder in whose name the Note is registered in the security register on the preceding January 1 or July 1, whether or not a Business Day, as the case may be, in accordance with the terms of the Indenture. Interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months. The Company shall pay interest on any Notes in certificated form by check mailed to the address of the person entitled thereto; provided, however, that a Holder of any Notes in certificated form in the aggregate principal amount of more than \$2,000,000 may specify by written notice to the Company that it pay interest by wire transfer of immediately available funds to the account specified by the Holder in such notice, or on any Global Notes by wire transfer of immediately available funds to the account of the Depositary or its nominee. This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually or by facsimile by the Trustee or a duly authorized authenticating agent under the Indenture.

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

Dated: September 16, 2019

SPIRIT REALTY, L.P.

By: Spirit General OP Holdings, LLC, Its Sole  
General Partner

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



---

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This is one of the Notes described in the within-named Indenture. : [ ], 20[ ]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

---

[FORM OF REVERSE SIDE OF NOTE]

**SPIRIT REALTY, L.P.**

**3.400% NOTES DUE 2030**

This Note is one of a duly authorized issue of Securities of the Company, designated as its 3.400% Notes due 2030 (herein called the “**Notes**”), issued under and pursuant to an Indenture dated as of August 18, 2016 (herein called the “**Base Indenture**”), among the Company, the Guarantor and U.S. Bank National Association, as trustee (herein called the “**Trustee**”), as supplemented by the Fourth Supplemental Indenture, dated as of September 16, 2019 (herein called the “**Fourth Supplemental Indenture**,” and together with the Base Indenture, the “**Indenture**”), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Capitalized terms used but not otherwise defined in this Note shall have the respective meanings ascribed thereto in the Indenture.

If an Event of Default (other than an Event of Default specified in Sections 7.1(f), 7.1(g) and 7.1(h) of the Fourth Supplemental Indenture with respect to the Company) occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest on all Notes may be declared to be due and payable by either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, and, upon said declaration the same shall be immediately due and payable. If an Event of Default specified in Sections 7.1(f), 7.1(g) and 7.1(h) of the Fourth Supplemental Indenture occurs with respect to the Company, the principal of and premium, if any, and interest accrued and unpaid on all the Notes shall be immediately and automatically due and payable without necessity of further action.

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the Holders of the Notes, subject to exceptions set forth in Section 8.2 of the Fourth Supplemental Indenture. Subject to the provisions of the Indenture, the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding may, on behalf of the Holders of all of the Notes, waive any past default or Event of Default, subject to exceptions set forth in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall impair, as among the Company and the Holder of the Notes, the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on this Note at the place, at the respective times, at the rate and in the coin or currency prescribed herein and in the Indenture.

Interest on the Notes shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

---

The Notes are issuable in fully registered form, without coupons, in denominations of \$2,000 principal amount and any multiple of \$1,000. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, without payment of any service charge but with payment of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in connection with any registration or exchange of Notes, Notes may be exchanged for a like aggregate principal amount of Notes of any other authorized denominations.

The Company shall have the right to redeem the Notes under certain circumstances as set forth in Section 4.1, Section 4.2 and Section 4.3 of the Fourth Supplemental Indenture.

The Notes are not subject to redemption through the operation of any sinking fund.

Except as expressly provided in Article V of the Fourth Supplemental Indenture, no recourse for the payment of the principal of (including the Redemption Price (as defined in Section 4.1 of the Fourth Supplemental Indenture) upon redemption pursuant to Article IV of the Fourth Supplemental Indenture) or any premium, if any, or interest on this Note, or for any claim based hereon or otherwise in respect hereof, and no recourse under or upon any obligation, covenant or agreement of the Company in the Indenture or in any Note, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, partner, member, manager, employee, agent, officer, director or subsidiary, as such, past, present or future, of the Guarantor, the Company or any of the Company's Subsidiaries or of any successor thereto, either directly or through the Guarantor, the Company or any of the Company's subsidiaries or of any successor thereto, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as consideration for, the execution of the Indenture and the issue of this Note.

---

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_

(Insert assignee's legal name)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

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

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

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

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

Signature Guarantee\*: \_\_\_\_\_

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

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE \*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in principal amount at maturity of this Global Note	Amount of increase in principal amount at maturity of this Global Note	Principal amount at maturity of this Global Note following such decrease(or increase)	Signature of authorized officer of Trustee or Custodian
------------------	--	--	---	---

\* This Schedule should be included only if the Note is issued in global form.

[\(Back To Top\)](#)

## Section 4: EX-5.1 (EX-5.1)

Exhibit 5.1

355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
Tel: +1.213.485.1234 Fax: +1.213.891.8763  
www.lw.com

**LATHAM & WATKINS** LLP

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

September 16, 2019

Spirit Realty Capital, Inc.  
Spirit Realty, L.P.  
2727 North Harwood Street, Suite 300  
Dallas, Texas 75201

Re: Registration Statement on Form S-3 and Prospectus Supplement; \$300,000,000 Aggregate Principal Amount of Spirit Realty, L.P.'s 3.200% Notes Due 2027 and \$500,000,000 Aggregate Principal Amount of Spirit Realty, L.P.'s 3.400% Notes Due 2030

Ladies and Gentlemen:

We have acted as special counsel to Spirit Realty Capital, Inc., a Maryland corporation (the “*Guarantor*”), and Spirit Realty, L.P., a Delaware limited partnership (the “*Operating Partnership*”), in connection with the issuance of \$300,000,000 aggregate principal amount of the Operating Partnership’s 3.200% Notes due 2027 (the “*2027 Notes*”) and \$500,000,000 aggregate principal amount of the Operating Partnership’s 3.400% Notes due 2030 (“*2030 Notes*”) and, together with the 2027 Notes, the “*Notes*”) and the guarantee of the 2027 Notes (the “*2027 Guarantee*”) by the Guarantor, under an indenture dated August 18, 2016 (the “*Base Indenture*”) among the Operating Partnership and U.S. Bank National Association, as trustee (the “*Trustee*”), as supplemented by the Third Supplemental Indenture dated as of the date hereof, among the Operating Partnership, the Guarantor and the Trustee (the “*Third Supplemental Indenture*”) and, together with the Base Indenture, the “*2027 Notes Indenture*”), and the guarantee of the 2030 Notes (the “*2030 Guarantee*”) and, together with the 2027 Guarantee, the “*Guarantees*”) by the Guarantor, under the Base Indenture, as supplemented by the Fourth Supplemental Indenture dated as of the date hereof, among the Operating Partnership, the Guarantor and the Trustee (the “*Fourth Supplemental Indenture*”) and, together with the Base Indenture, the “*2030 Notes Indenture*”) and pursuant to a registration statement on Form S-3 under the Securities Act of 1933, as amended (the “*Act*”), filed with the Securities and Exchange Commission (the “*Commission*”) on September 25, 2017 (Registration Nos. 333-220618 and 333-220618-01) (as so filed and as amended, the “*Registration Statement*”), a base

LATHAM & WATKINS<sup>LLP</sup>

prospectus dated September 25, 2017 included as part of the Registration Statement (the “*Base Prospectus*”), a preliminary prospectus supplement dated September 9, 2019 filed with the Commission pursuant to Rule 424(b) under the Act, a prospectus supplement dated September 9, 2019 filed with the Commission pursuant to Rule 424(b) under the Act (together with the Base Prospectus, the “*Prospectus*”), and an underwriting agreement dated September 9, 2019 (the “*Underwriting Agreement*”) among the Operating Partnership, the Guarantor and J.P. Morgan Securities LLC, BofA Securities, Inc., RBC Capital Markets, LLC and SunTrust Robinson Humphrey, Inc., as representatives of the several underwriters named therein. This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or Prospectus, other than as expressly stated herein with respect to the issue of the Notes and Guarantees.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Operating Partnership, the Guarantor and others as to factual matters without having independently verified such factual matters. We are opining herein as to the internal laws of the State of New York, and we express no opinion with respect to the applicability thereto, or the effect thereon, of the laws of any other jurisdiction or as to any matters of municipal law or the laws of any local agencies within any state. Various issues concerning Maryland law are addressed in the opinion of Ballard Spahr LLP, and various matters concerning Delaware law are addressed in the opinion of Richards, Layton & Finger, P.A., each of which has been separately provided to you. We express no opinion with respect to those matters herein, and to the extent elements of those opinions are necessary to the conclusions expressed herein, we have, with your consent, assumed such matters.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the 2027 Notes have been duly executed, issued and authenticated in accordance with the terms of the 2027 Notes Indenture and delivered against payment therefor in the circumstances contemplated by the Underwriting Agreement, the 2027 Notes and the 2027 Guarantee will be legally valid and binding obligations of the Operating Partnership and the Guarantor, respectively, enforceable against the Operating Partnership and the Guarantor in accordance with their respective terms.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the 2030 Notes have been duly executed, issued and authenticated in accordance with the terms of the 2030 Notes Indenture and delivered against payment therefor in the circumstances contemplated by the Underwriting Agreement, the 2030 Notes and the 2030 Guarantee will be legally valid and binding obligations of the Operating Partnership and the Guarantor, respectively, enforceable against the Operating Partnership and the Guarantor in accordance with their respective terms.

Our opinion is subject to: (a) the effects of bankruptcy, insolvency, reorganization, preference, fraudulent transfer, moratorium or other similar laws relating to or affecting the rights or remedies of creditors; (b) the effects of general principles of equity, whether considered in a proceeding in equity or at law (including the possible unavailability of specific performance or

injunctive relief), concepts of materiality, reasonableness, good faith, fair dealing and the discretion of the court before which a proceeding is brought; (c) the invalidity under certain circumstances under law or court decisions of provisions for the indemnification or exculpation of, or contribution to, a party with respect to a liability where such indemnification, exculpation or contribution is contrary to public policy; and (d) we express no opinion with respect to (i) consents to, or restrictions upon, governing law, jurisdiction, venue, service of process, arbitration, remedies or judicial relief; (ii) advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitation, trial by jury or at law, or other procedural rights; (iv) waivers of rights or defenses contained in Sections 4.4 of the Base Indenture, Section 5.1(b) of the Third Supplemental Indenture and Section 5.1(b) of the Fourth Supplemental Indenture (except, with respect to Section 5.1(b) of the Third Supplemental Indenture and Section 5.1(b) of the Fourth Supplemental Indenture, to the extent such waiver is limited to the fullest extent that the Guarantor may do so under applicable law) and waivers of broadly or vaguely stated rights; (v) provisions to the effect that a guarantor is liable as a primary obligor and not as a surety and provisions purporting to waive modifications of any guaranteed obligation to the extent such modification constitutes a novation; (vi) provisions for the payment of attorneys' fees where such payment is contrary to law or public policy; (vii) provisions prohibiting, restricting, or requiring consent to assignment or transfer of any agreement, right or property; (viii) provisions for liquidated damages, default interest, late charges, monetary penalties, prepayment or make-whole premiums or other economic remedies to the extent such provisions are deemed to constitute a penalty; (ix) provisions permitting, upon acceleration of any indebtedness (including the Notes), collection of that portion of the stated principal amount thereof which might be determined to constitute unearned interest thereon; and (x) the severability, if invalid, of provisions to the foregoing effect.

We express no opinion or confirmation as to federal or state securities laws, tax laws, antitrust or trade regulation laws, insolvency or fraudulent transfer laws, antifraud laws, compliance with fiduciary duty requirements, pension or employee benefit laws, usury laws, environmental laws, laws and regulations relating to commodities trading, futures and swaps, Financial Industry Regulatory Authority Inc. rules, National Futures Association rules, the rules of any stock exchange, clearing organization, designated contract market or other regulated entity for trading, processing, clearing or reporting transactions in securities, commodities, futures or swaps, or export control, anti-money laundering and anti-terrorism laws (without limiting other laws or rules excluded by customary practice).

With your consent, except to the extent we have expressly opined as to such matters with respect to the Operating Partnership or the Guarantor herein, we have assumed (a) that the 2027 Notes, the 2030 Notes, the 2027 Notes Indenture, the 2030 Notes Indenture, the 2027 Guarantee and the 2030 Guarantee (collectively, the "**Documents**") have been duly authorized, executed and delivered by the parties thereto, (b) that the Documents constitute legally valid and binding obligations of the parties thereto, enforceable against each of them in accordance with their respective terms and (c) that the status of the Documents as legally valid and binding obligations of the parties is not affected by any (i) breaches of, or defaults under, agreements or instruments, (ii) violations of statutes, rules, regulations or court or governmental orders or (iii) failures to obtain required consents, approvals or authorizations from, or make required registrations, declarations or filings with, governmental authorities.

**LATHAM & WATKINS** LLP

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Guarantor's and the Operating Partnership's Current Report on Form 8-K dated September 16, 2019 and to the reference to our firm contained in the Prospectus under the heading "Legal Matters." In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Latham & Watkins LLP

[\(Back To Top\)](#)

## Section 5: EX-5.2 (EX-5.2)

Exhibit 5.2

## Ballard Spahr

LLP

---

300 East Lombard Street, 18<sup>th</sup> Floor  
Baltimore, MD 21202-3268  
TEL 410.528.5600  
FAX 410.528.5650  
www.ballardspahr.com

September 16, 2019

Spirit Realty, L.P.  
Spirit Realty Capital, Inc.  
2727 North Harwood Street  
Suite 300  
Dallas, Texas 75201

Re: Spirit Realty Capital, Inc., a Maryland corporation (the "Company") – Issuance and sale of \$300,000,000 aggregate principal amount of 3.200% Senior Notes due 2027 (the "2027 Notes") and \$500,000,000 aggregate principal amount of 3.400% Senior Notes due 2030 (the "2030 Notes" and together with the 2027 Notes, collectively, the "Notes") by Spirit Realty, L.P., a Delaware limited partnership (the "Operating Partnership"), pursuant to a Registration Statement on Form S-3 (Registration Nos. 333-220618 and 333-220618-01) (the "Registration Statement")

Ladies and Gentlemen:

We have acted as Maryland corporate counsel to the Company in connection with the registration of the Notes and the Guarantees (as defined herein) under the Securities Act of 1933, as amended (the "Act"), under the Registration Statement, which was filed with the Securities and Exchange Commission (the "Commission") on or about September 25, 2017. You have requested our opinion with respect to the matters set forth below.

We understand that the 2027 Notes will be issued under, and subject to the terms of, the 2027 Notes Indenture (as defined herein), and, pursuant to Article V of the Third Supplemental Indenture (as defined herein), the Company will provide a full and unconditional guarantee with respect to the 2027 Notes (the "2027 Notes Guarantee"). We further understand that the 2030 Notes will be issued under, and subject to the terms of, the 2030 Notes Indenture (as defined herein), and, pursuant to Article V of the Fourth Supplemental Indenture (as defined herein), the Company will provide a full and unconditional guarantee with respect to the 2030 Notes (the "2030 Notes Guarantee" and together with the 2027 Notes Guarantee, collectively, the "Guarantees").



---

**BALLARD SPAHR LLP**

Spirit Realty, L.P.  
Spirit Realty Capital, Inc.  
September 16, 2019  
Page 2

In our capacity as Maryland corporate counsel to the Company and for the purposes of this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents:

1. the corporate charter of the Company (the “Charter”) represented by Articles of Restatement filed with the State Department of Assessments and Taxation of Maryland (the “SDAT”) on August 21, 2013, Articles of Amendment filed with the SDAT on May 13, 2014, Articles Supplementary filed with the SDAT on March 3, 2017, Articles Supplementary filed with the SDAT on October 2, 2017, Articles of Amendment filed with the SDAT on December 12, 2018 and Articles of Amendment filed with the SDAT on April 29, 2019;
2. the Fifth Amended and Restated Bylaws of the Company, dated as of August 10, 2017 (the “Bylaws”);
3. resolutions adopted by the Board of Directors of the Company, or a duly authorized committee thereof, on or as of September 6, 2019 and September 9, 2019, which, among other things, authorized the issuance of the Notes (collectively, the “Directors’ Resolutions”);
4. the Second Amended and Restated Limited Liability Company Agreement of Spirit General OP Holdings, LLC, a Delaware limited liability company of which the Company is the sole member, which is the sole general partner of the Operating Partnership, dated as of March 25, 2015 (the “LLC Agreement”);
5. the Second Amended and Restated Agreement of Limited Partnership of Spirit Realty, L.P., dated as of October 3, 2017 (the “Partnership Agreement”);
6. the Indenture, dated as of August 18, 2016 (the “Base Indenture”), by and between the Operating Partnership and U.S. Bank, National Association (the “Trustee”), as supplemented by the Third Supplemental Indenture, dated as of September 16, 2019 (the “Third Supplemental Indenture”, and together with the Base Indenture, the “2027 Notes Indenture”), by and among the Operating Partnership, the Company and the Trustee, and as further supplemented by the Fourth Supplemental Indenture, dated as of September 16, 2019 (the “Fourth Supplemental Indenture”, and together with the Base Indenture, the “2030 Notes Indenture”), by and among the Operating Partnership, the Company and the Trustee;
7. a certificate of one or more officers of the Company, dated as of a recent date (the “Officers’ Certificate”), to the effect that, among other things, the Charter, the Bylaws, the Directors’ Resolutions, the LLC Agreement and the Partnership Agreement are true, correct and

---

**BALLARD SPAHR LLP**

Spirit Realty, L.P.  
Spirit Realty Capital, Inc.  
September 16, 2019  
Page 3

complete and have not been rescinded or modified, and that the Charter, the Bylaws, the Directors' Resolutions, the LLC Agreement and the Partnership Agreement are in full force and effect, as of the date of the Officers' Certificate, and certifying as to the manner of adoption of the Directors' Resolutions, and the form, approval, execution and delivery of the 2027 Notes Indenture (which includes the 2027 Notes Guarantee) and the 2030 Notes Indenture (which includes the 2030 Notes Guarantee);

8. the Registration Statement and the related base prospectus and prospectus supplement included therein, in substantially the form filed or to be filed with the Commission pursuant to the Act;
9. a status certificate of the SDAT, dated as of a recent date, to the effect that the Company is duly incorporated and existing under the laws of the State of Maryland; and
10. such other laws, records, documents, certificates, opinions and instruments as we have deemed necessary to render this opinion, subject to the limitations, assumptions and qualifications noted below.

In reaching the opinions set forth below, we have assumed the following:

- (a) each person executing any instrument, document or agreement on behalf of any party (other than the Company) is duly authorized to do so;
- (b) each natural person executing any instrument, document or agreement is legally competent to do so;
- (c) there are no material modifications of, or amendments to, the pertinent sections of the 2027 Notes Indenture (which includes the 2027 Notes Guarantee) and the 2030 Notes Indenture (which includes the 2030 Notes Guarantee);
- (d) all documents submitted to us as originals are authentic; all documents submitted to us as certified, facsimile or photostatic copies conform to the original document; all signatures on all documents submitted to us for examination are genuine; and all public records reviewed are accurate and complete;
- (e) the Officers' Certificate and all other certificates submitted to us are true and correct both when made and as of the date hereof; and

---

**BALLARD SPAHR LLP**

Spirit Realty, L.P.  
Spirit Realty Capital, Inc.  
September 16, 2019  
Page 4

- (f) each of the parties thereto (other than the Company) have duly and validly authorized, executed and delivered each instrument, document and agreement, including but not limited to the 2027 Notes Indenture and the 2030 Notes Indenture, executed in connection with the transactions contemplated by the 2027 Notes Indenture and the 2030 Notes Indenture to which such party is a signatory, and such party's obligations set forth therein are its legal, valid and binding obligations, enforceable in accordance with their respective terms.

Based on the foregoing, and subject to the assumptions and qualifications set forth herein, it is our opinion that, as of the date of this letter:

- (i) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Maryland.
- (ii) The execution and delivery by the Company, acting in its own capacity, of the Third Supplemental Indenture (which includes the 2027 Notes Guarantee) and the Fourth Supplemental Indenture (which includes the 2030 Notes Guarantee) have been duly authorized by all necessary corporate action on the part of the Company, and the Third Supplemental Indenture (which includes the 2027 Notes Guarantee) and the Fourth Supplemental Indenture (which includes the 2030 Notes Guarantee) have been duly executed and delivered by the Company.

The foregoing opinion is limited to the laws of the State of Maryland, and we do not express any opinion herein concerning any other law. We express no opinion as to the applicability or effect of any federal or state securities laws, including the securities laws of the State of Maryland, or as to federal or state laws regarding fraudulent transfers, or with respect to the actions required for the Operating Partnership to authorize, execute, deliver or perform its obligations under any document, instrument or agreement. To the extent that any matter as to which our opinion is expressed herein would be governed by the laws of any jurisdiction other than the State of Maryland, we do not express any opinion on such matter.

This opinion letter is issued as of the date hereof and is necessarily limited to laws now in effect and facts and circumstances presently existing and brought to our attention. We assume no obligation to supplement this opinion letter if any applicable laws change after the date hereof, or if we become aware of any facts or circumstances that now exist or that occur or arise in the future and may change the opinions expressed herein after the date hereof.

---

**BALLARD SPAHR LLP**

Spirit Realty, L.P.  
Spirit Realty Capital, Inc.  
September 16, 2019  
Page 5

We consent to your filing this opinion as an exhibit to the Company's and the Operating Partnership's Current Report on Form 8-K which is incorporated by reference in the Registration Statement, and further consent to the filing of this opinion as an exhibit to the applications to securities commissioners for the various states of the United States for registration of the Notes and the Guarantees. We also consent to the identification of our firm as Maryland counsel to the Company in the section of the Registration Statement entitled "Legal Matters". In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Act.

Very truly yours,

/s/ BALLARD SPAHR LLP

[\(Back To Top\)](#)

## **Section 6: EX-5.3 (EX-5.3)**

**Exhibit 5.3**

[Letterhead of Richards, Layton & Finger, P.A.]

September 16, 2019

Spirit Realty Capital, Inc.  
2727 North Harwood Street  
Suite 300  
Dallas, Texas 75201

Re: Spirit Realty, L.P.

Ladies and Gentlemen:

We have acted as special Delaware counsel for Spirit Realty, L.P., a Delaware limited partnership (the "Partnership"), and Spirit General OP Holdings, LLC, a Delaware limited liability company (the "General Partner"), in connection with the matters set forth herein. At your request, this opinion is being furnished to you.

For purposes of giving the opinions hereinafter set forth, our examination of documents has been limited to the examination of copies of the following:

- (a) The Certificate of Limited Partnership of the Partnership, dated September 24, 2012 (the "Partnership Certificate"), as filed in the office of the Secretary of State of the State of Delaware (the "Secretary of State") on September 24, 2012, and effective on September 25, 2012;
- (b) The Agreement of Limited Partnership of the Partnership, dated as of September 25, 2012, executed by the General Partner, as the general partner of the Partnership, and Spirit Finance Corporation, a Maryland corporation, which has changed its name to Spirit Realty Capital, Inc. ("Spirit Realty Capital"), as a limited partner of the Partnership, as amended by the First Amendment thereto, dated as of May 20, 2014;
- (c) The First Amended and Restated Agreement of Limited Partnership of the Partnership, dated as of September 12, 2014, executed by the General Partner, as the general partner of the Partnership, and each of Spirit Realty Capital and Spirit Notes Partner, LLC, a Delaware limited liability company, as the only limited partners of the Partnership;
- (d) The Second Amended and Restated Agreement of Limited Partnership of the Partnership, dated as of October 3, 2017 (the "Partnership Agreement"), executed by the General Partner, as the general partner of the Partnership, and each of Spirit Realty Capital and Spirit Notes Partner, LLC, a Delaware limited liability company, as the only limited partners of the Partnership;

(e) The Certificate of Formation of the General Partner, dated May 18, 2012 (the "General Partner Certificate"), as filed in the office of the Secretary of State on May 18, 2012;

(f) The Limited Liability Company Agreement of the General Partner, dated as of May 18, 2012, executed by Spirit Realty Capital, as the member;

(g) The Amended and Restated Limited Liability Company Agreement of the General Partner, dated as of August 1, 2013, executed by Spirit Realty Capital, as the member, and the General Partner;

(h) The Second Amended and Restated Limited Liability Company Agreement of the General Partner, dated as of March 25, 2015 (the "General Partner Agreement"), executed by Spirit Realty Capital, as the member, and the General Partner;

(i) The Unanimous Consent of the Board of Managers of the General Partner, dated as of September 6, 2019 (the "General Partner Consent"), and the Unanimous Written Consent of the Board of Managers of the General Partner, dated as of September 9, 2019 (together with the General Partner Consent, the "General Partner Resolutions");

(j) An Incumbency Certificate for the General Partner, dated as of September 16, 2019;

(k) The Registration Statement on Form S-3 (the "Registration Statement"), filed by the Partnership and others with the Securities and Exchange Commission on September 25, 2017, relating to, inter alia, the registration by the Partnership of debt securities to be issued by it;

(l) The Prospectus, dated September 25, 2017 (the "Base Prospectus");

(m) The Prospectus Supplement, dated September 9, 2019 (together with the Base Prospectus, the "Prospectus");

(n) The Indenture, dated as of August 18, 2016 (the "Base Indenture"), between the Partnership and U.S. Bank National Association;

(o) The Third Supplemental Indenture, dated as of September 16, 2019 (the "Third Supplemental Indenture"), between the Partnership, Spirit Realty Capital and U.S. Bank National Association;

(p) The Fourth Supplemental Indenture, dated as of September 16, 2019 (the "Fourth Supplemental Indenture"), between the Partnership, Spirit Realty Capital and U.S. Bank National Association;

(q) The Global Note representing 3.200% Senior Notes Due 2027, dated September 16, 2019, by the Partnership (the "2027 Debt Securities");

(r) The Global Note representing 3.400% Senior Notes Due 2030, dated September 16, 2019, by the Partnership (jointly with the 2027 Debt Securities, the "Debt Securities");

(s) A Certificate of Good Standing for the Partnership, dated September 13, 2019, obtained from the Secretary of State; and

(t) A Certificate of Good Standing for the General Partner, dated September 13, 2019, obtained from the Secretary of State.

The Third Supplemental Indenture and the Fourth Supplemental Indenture and hereinafter referred to jointly as the "Supplemental Indenture." The Base Indenture, as supplemented by the Supplemental Indenture, is hereinafter referred to as the "Indenture." Capitalized terms used herein and not otherwise defined are used as defined in the Indenture.

For purposes of this opinion, we have not reviewed any documents other than the documents listed in paragraphs (a) through (t) above. In particular, we have not reviewed any document (other than the documents listed in paragraphs (a) through (t) above) that is referred to in or incorporated by reference into the documents reviewed by us. We have assumed that there exists no provision in any document that we have not reviewed that is inconsistent with the opinions stated herein. We have conducted no independent factual investigation of our own but rather have relied solely upon the foregoing documents, the statements and information set forth therein and the additional matters recited or assumed herein, all of which we have assumed to be true, complete and accurate in all material respects.

With respect to all documents examined by us, we have assumed that (i) all signatures on documents examined by us are genuine, and (ii) all documents submitted to us as copies conform with the originals of those documents.

For purposes of this opinion, we have assumed (i) except to the extent provided in paragraph 1 below, that each of the parties to the documents examined by us has been duly created, formed or organized, as the case may be, and is validly existing in good standing under the laws of the jurisdiction governing its creation, formation or organization, (ii) that each natural person who is a signatory to the documents examined by us has the requisite legal capacity, (iii) except to the extent provided in paragraph 2 below, that each of the parties to the documents examined by us has the power and authority to execute and deliver, and to perform its obligations under, such documents, (iv) except to the extent provided in paragraph 3 below, that each of the parties to the documents examined by us has duly authorized, executed and delivered such documents, (v) that any amendment or restatement of any document reviewed by us has been accomplished in accordance with, and was permitted by, the relevant provisions of such document prior to its amendment or restatement from time to time, (vi) that the Partnership Certificate, the Partnership Agreement, the General Partner Certificate, the General Partner Agreement and the General Partner Resolutions are in full force and effect, have not been amended and no amendment of such documents is pending or has been proposed, (vii) that there are no proceedings pending or contemplated for the merger, consolidation, conversion, dissolution, liquidation or termination of

the Partnership or the General Partner, (viii) that the Debt Securities will be issued in accordance with the Indenture, the Registration Statement and the Prospectus. We have not participated in the preparation of the Registration Statement or the Prospectus and assume no responsibility for their contents.

This opinion is limited to the laws of the State of Delaware (excluding the securities laws of the State of Delaware), and we have not considered and express no opinion on the laws of any other jurisdiction, including federal laws and rules and regulations relating thereto. Our opinions are rendered only with respect to Delaware laws and rules, regulations and orders thereunder that are currently in effect.

Based upon the foregoing, and upon our examination of such questions of law and statutes of the State of Delaware as we have considered necessary or appropriate, and subject to the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. The Partnership has been duly formed and is validly existing in good standing as a limited partnership under the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.) (the “LP Act”).

2. Under the LP Act and the Partnership Agreement, the Partnership has the requisite partnership power and authority to execute and deliver the Indenture and the Debt Securities, and to perform its obligations under the Indenture and the Debt Securities.

3. Under the LP Act and the Partnership Agreement, the execution and delivery by the Partnership of the Indenture and the Debt Securities, and the performance by the Partnership of its obligations under the Indenture and the Debt Securities, have been duly authorized by the requisite partnership action on the part of the Partnership. Each of the Indenture and the Debt Securities has been duly executed and delivered by the General Partner on behalf of the Partnership.

We understand that you will file this opinion with the Securities and Exchange Commission as an exhibit to Spirit Realty Capital’s and the Partnership’s Current Report on Form 8-K, dated September 16, 2019, which is incorporated by reference in the Registration Statement. In connection with the foregoing, we hereby consent to the filing of this opinion with the Securities and Exchange Commission. We hereby consent to the use of our name under the heading “Legal Matters” in the Registration Statement. In giving the foregoing consents, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Richards, Layton & Finger, P.A.