# FORM S-1/A

General form of registration statement for all companies including face-amount certificate companies [amend]

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## FILER

**Preston Hollow Community Capital, Inc.**
CIK:**1861681**| IRS No.: **000000000** | State of Incorp.:**MD** | Fiscal Year End: **1231**
Type: **S-1/A** | Act: **33** | File No.: **333-257713** | Film No.: **211112759**
SIC: **6199** Finance services

Mailing Address
*1717 MAIN STREET*
*SUITE 3900*
*DALLAS TX 75201*

Business Address
*1717 MAIN STREET*
*SUITE 3900*
*DALLAS TX 75201*
*214 389-0800*

**As filed with the Securities and Exchange Commission on July 26, 2021.**

**Registration Statement No. 333-257713**

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

**AMENDMENT No. 2**
**TO**
# FORM S-1

**REGISTRATION STATEMENT**
**UNDER**
**THE SECURITIES ACT OF 1933**

# PRESTON HOLLOW COMMUNITY CAPITAL, INC.

*(Exact name of registrant as specified in its governing instruments)*

| Maryland | 6199 | 87-1135422 |
|---|---|---|
| *(State or other jurisdiction of incorporation or organization)* | *(Primary Standard Industrial Classification Code Number)* | *(I.R.S. Employer Identification No.)* |

1717 Main Street, Suite 3900
Dallas, Texas 75201
*(Address, including Zip Code, and Telephone Number, including Area Code, of Registrant's Principal Executive Offices)*

Jim Thompson
Chief Executive Officer
1717 Main Street, Suite 3900
Dallas, Texas 75201
(214) 389-0800
*(Name, Address, including Zip Code, and Telephone Number, including Area Code, of Agent for Service)*

***Copies to:***

Jay L. Bernstein, Esq.
Jake A. Farquharson, Esq.
Jason W. Parsont, Esq.
Clifford Chance US LLP
31 West 52nd Street
New York, New York 10019
Tel (212) 878-8000
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Richard D. Truesdell, Jr., Esq.
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450 Lexington Avenue
New York, New York 10017
Tel (212) 450-4000
Fax (212) 701-5800

**Approximate date of commencement of proposed sale to the public:**
**As soon as practicable after the effective date of this registration statement.**

If any of the Securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box: ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. ☐

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

Large accelerated filer ☐ Emerging growth company ☒ Accelerated filer ☐ Non-accelerated filer ☒ Smaller reporting 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 7(a)(2)(B) of the Securities Act. ☐

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment that specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

# Explanatory note

Preston Hollow Community Capital, Inc. is filing this Amendment No. 2 (the ‘‘Amendment’’) to its Registration Statement on Form S-1 (Registration No. 333-257713) (the ‘‘Registration Statement’’) as an exhibit-only filing to file Exhibits 1.1, 3.2, 4.1, 4.2, 5.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14, 10.15, 10.16, 10.17, 21.1 and 23.3, none of which (other than Exhibit 3.2) had been previously filed. Accordingly, this Amendment consists only of the facing page, this explanatory note, Part II of the Registration Statement, the signature page to the Registration Statement and the filed exhibits. The preliminary prospectus is unchanged and has therefore been omitted.

# PART II
# INFORMATION NOT REQUIRED IN PROSPECTUS

## Item 13. *Other Expenses of Issuance and Distribution*

The following table itemizes the expenses incurred by us in connection with the issuance and registration of the securities being registered hereunder. All amounts shown are estimates except for the SEC registration fee and the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the NYSE listing fee.

| | |
|---|---|
| SEC Registration Fee | $26,413.69 |
| FINRA Filing Fee | $ 36,816 |
| Listing Fee | $ 25,000 |
| Accounting Fees & Expenses | $ 300,000 |
| Legal Fees and Expenses | $1,501,770 |
| Printing Fees and Expenses | $ 80,000 |
| Transfer Agent and Registrar Fees | $ 10,000 |
| Miscellaneous | $ 20,000 |
| **Total** | $2,000,000 |

## Item 14. *Indemnification of Directors and Officers*

Maryland law permits a Maryland corporation to include in its charter a provision eliminating the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from actual receipt of an improper benefit or profit in money, property, or services or active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our Charter contains such a provision that eliminates such liability to the maximum extent permitted by Maryland law.

The MGCL requires a Maryland corporation (unless its charter provides otherwise, which our Charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. The MGCL permits a Maryland corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements, and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or are threatened to be made a party by reason of their service in those or other capacities unless it is established that:

1. the act or omission of the director or officer was material to the matter giving rise to the proceeding and

- was committed in bad faith; or
- was the result of active and deliberate dishonesty;

2. the director or officer actually received an improper personal benefit in money, property or services; or

3. in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under the MGCL, a Maryland corporation may not indemnify a director or officer for an adverse judgment in a suit by or on behalf of the corporation or if the director or officer was adjudged liable on the basis that personal benefit was improperly received, unless, in either case, a court orders indemnification and then only for expenses. A court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even

though the director or officer did not meet the prescribed standard of conduct or was adjudged liable on the basis that personal benefit was improperly received.

The MGCL permits a Maryland corporation to advance reasonable expenses incurred by a director or officer who is party to a proceeding in advance of the final disposition of the proceeding upon its receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by us; and
- a written undertaking by the director or officer or on his or her behalf to repay the amount advanced to him or her if it is ultimately determined that the standard of conduct for indemnification by the corporation was not met.

Our Charter obligates us, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

- any present or former director or officer who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in that capacity;
- any individual who, while a director or officer of our company and at our request, serves or has served as a director, officer, partner, manager, managing member or trustee of another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise and who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in that capacity; or
- any individual who served any predecessor of our company, including PHC LLC in a similar capacity, who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in such capacity.

We have entered into indemnification agreements with each of our directors and executive officers. The indemnification agreements require that, subject to certain conditions, we indemnify each director and officer to the fullest extent permitted by law against any and all liabilities and expenses to which they may become subject by reason of their service as a director, officer, employee, or agent of our Company, and that we advance to each director and officer all related expenses incurred by each director or officer in defense of any claim or proceeding without any preliminary determination of the director's or officer's entitlement to indemnification; provided, that any amounts advanced will be refunded to us by the indemnified director or officer if it is ultimately determined that they did not meet the standard of conduct necessary for indemnification. The indemnification agreements also require that we maintain directors' and officers' liability insurance covering our directors and officers on terms at least as favorable as the policy coverage in place as of the date each indemnification agreement is entered into. Each indemnification agreement may only be amended by the mutual written agreement of our Company and the director or officer party thereto.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling our Company pursuant to the foregoing provisions, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

## Item 15. *Recent Sales of Unregistered Securities*

On June 23, 2021 and July 12, 2021, respectively, (i) the Registrant issued 50 shares of Class A common stock, and (ii) PHCC OP, LP issued 50 Class A OP units to Preston Hollow Capital, LLC, each at a price of $10 per share and unit, for an aggregate purchase price of $1,000. In connection with Preston Hollow Capital, LLC's purchase of 50 Class A OP units the Registrant also issued to Preston Hollow Capital, LLC, 50 shares of Class B common stock for $10.00 in the aggregate (representing 2%, or 1/50, of the purchase price per share of the Class A OP Units).

The issuance of the Class A common stock, Class B common stock, and OP units described above was exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act, as transactions by an issuer not involving a public offering.

## Item 16. *Financial Statements and Exhibits*

(A) Financial Statements: See Index to Financial Statements.

(B) Exhibits: The following exhibits are filed as part of, or incorporated by reference into, this registration statement on Form S-1:

| Exhibit | Description |
|---|---|
| 1.1 | Form of Underwriting Agreement |
| *3.1 | Form of Articles of Amendment and Restatement |
| 3.2 | Form of Amended and Restated Bylaws |
| 4.1 | Form of Specimen Class A Common Stock Certificate of Preston Hollow Community Capital, Inc. |
| 4.2 | Form of Specimen Class B Common Stock Certificate of Preston Hollow Community Capital, Inc. |
| 5.1 | Opinion of Clifford Chance US LLP |
| 10.1 | Form of Shared Resources and Cooperation Agreement |
| 10.2 | Form of Registration Rights Agreement |
| 10.3 | Form of First Amended and Restated Limited Partnership Agreement |
| 10.4† | Form of 2021 Equity Incentive Plan |
| 10.5 | Form of Indemnification Agreement |
| 10.6 | Form of Tax Receivables Agreement |
| 10.7* | Standard Terms and Provisions of Trust Agreement with respect to Taxable Term A/B Trust Certificates, Class A and Taxable Term A/B Trust Certificates, Class B, dated August 6, 2020 |
| 10.8* | Amendment No. 2 to Credit Facility dated February 26, 2021, amending and restating the Credit Facility Agreement dated July 2, 2019 by and between Preston Hollow Capital, LLC and Mitsubishi UFJ Trust and Banking Corporation. |
| 10.9† | Form of Employment Agreement by and between Preston Hollow Community Capital, Inc. and Jim Thompson. |
| 10.10† | Form of Employment Agreement by and between Preston Hollow Community Capital, Inc. and Cliff Weiner. |
| 10.11† | Form of Employment Agreement by and between Preston Hollow Community Capital, Inc. and Paige Deskin. |
| 10.12† | Form of Employment Agreement by and between Preston Hollow Community Capital, Inc. and Ramiro Albarran. |
| 10.13† | Form of Employment Agreement by and between Preston Hollow Community Capital, Inc. and Charlie Visconsi. |
| 10.14† | Form of Restricted Stock Unit Grant and Agreement |
| 10.15† | Form of Restricted Stock Grant and Agreement |
| 10.16† | Form of LTIP Unit Award Agreement |
| 10.17 | Form of Contribution Agreement |
| 21.1 | List of subsidiaries of Registrant |

| | |
|---|---|
| 23.1* | Consent of KPMG LLP, independent registered public accounting firm with respect to Preston Hollow |

| Exhibit | Description |
|---|---|
| | Community Capital, Inc. |
| 23.2* | Consent of KPMG LLP, independent registered public accounting firm with respect to Preston Hollow Capital, LLC |
| 23.3 | Consent of Clifford Chance US LLP (contained in Exhibit 5.1) |
| 24.1* | Power of Attorney |
| 99.1* | Consent of Jim Thompson as a director nominee |
| 99.2* | Consent of Christopher Doody as a director nominee |
| 99.3* | Consent of Alex Rogers as a director nominee |
| 99.4* | Consent of Mindy Hegi as a director nominee |
| 99.5* | Consent of J. Brendan Herron as a director nominee |

† Indicates management contract or compensatory plan.

* Previously filed.

## Item 17. *Undertakings*

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, in the State of Texas, on this 26th of July, 2021.

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**

By: /s/ Jim Thompson

Name: Jim Thompson

Title: Sole director of the Board of Directors, Chairman nominee, Chief Executive Officer, and President

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| | |
|---|---|
| | /s/ Jim Thompson |
| Date: July 26, 2021 | Jim Thompson<br>Sole director of the Board of Directors, Chairman nominee, Chief Executive Officer, and President<br>(Principal Executive Officer) |
| | /s/ Paige Deskin |
| Date: July 26, 2021 | Paige Deskin<br>Executive Vice President and Chief Financial Officer<br>(Principal Financial and Accounting Officer) |

**Exhibit 1.1**

Preston Hollow Community Capital, Inc.

[●] Shares of Class A Common Stock

Form of Underwriting Agreement

[●], 2021

J.P. Morgan Securities LLC
Barclays Capital Inc.
As Representatives of the
several Underwriters listed
in Schedule 1 hereto

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Ladies and Gentlemen:

Preston Hollow Community Capital, Inc., a Maryland corporation (the "Company"), proposes to issue and sell to the several underwriters listed in Schedule 1 hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), an aggregate of [●] shares of Class A Common Stock, par value $0.01 per share, of the Company (the "Underwritten Shares") and, at the option of the Underwriters, up to an additional [●] shares of Class A Common Stock of the Company (the "Option Shares"). The Underwritten Shares and the Option Shares are herein referred to as the "Shares". The shares of Class A Common Stock of the Company to be outstanding after giving effect to the sale of the Shares together with the shares of Class B Common Stock, par value $0.01 per share, of the Company (the "Class B Common Stock") are referred to herein as the "Stock".

Immediately prior to, or on, the Closing Date (as defined herein), the Company will complete the formation transactions (the "Formation Transactions") as described in "The structure and formation of our company" in the Registration Statement (as defined below). The documents set forth on Schedule 2 hereto, which have been, or will be, amended or restated or entered into, as applicable, pursuant to the Formation Transactions, are referred to as the "Formation Agreements." Any reference in this Agreement (as defined below), to the extent the context requires, to the "Transactions", shall include the transactions contemplated by the Formation Agreements (as defined below) and the Formation Transactions. The Formation Agreements together with this Agreement are hereinafter collectively referred to as the "Transaction Documents." Unless the context otherwise requires, references herein to the Company prior to the consummation of the Transactions shall refer to PHC LLC.

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The net proceeds received by the Company from the sale of the Shares pursuant to this Agreement will be used to finance the Company's purchase of partnership units of PHCC OP, LP, a Delaware limited partnership (the "Partnership"), as described in the "Use of Proceeds" section of the Preliminary Prospectus.

J.P. Morgan Securities LLC (the "Directed Share Underwriter") has agreed to reserve a portion of the Shares to be purchased by it under this Agreement, up to [●] Shares, for sale to the Company's [directors, officers, and certain employees and other parties related to the Company] (collectively, "Participants"), as set forth in the Prospectus (as hereinafter defined) under the heading "Underwriting" (the "Directed Share Program"). The Shares to be sold by the Directed Share Underwriter and its affiliates pursuant to the Directed Share

Program are referred to hereinafter as the "Directed Shares". Any Directed Shares not orally confirmed for purchase by any Participant by 10:00 A.M., New York City time on the business day on which this Agreement is executed will be offered to the public by the Underwriters as set forth in the Prospectus.

Each of the Company, Preston Hollow Capital, LLC, a Delaware limited liability company and predecessor to the Company ("PHC LLC"), and the Partnership hereby confirms its agreement with the several Underwriters concerning the purchase and sale of the Shares, as follows:

1. Registration Statement. The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Securities Act"), a registration statement (File No. 333-257713), including a prospectus, relating to the Shares. Such registration statement, as amended at the time it became effective, including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness ("Rule 430 Information"), is referred to herein as the "Registration Statement"; and as used herein, the term "Preliminary Prospectus" means each prospectus included in such registration statement (and any amendments thereto) before effectiveness, any prospectus filed with the Commission pursuant to Rule 424(a) under the Securities Act and the prospectus included in the Registration Statement at the time of its effectiveness that omits Rule 430 Information, and the term "Prospectus" means the prospectus in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with confirmation of sales of the Shares. If the Company has filed an abbreviated registration statement pursuant to Rule 462(b) under the Securities Act (the "Rule 462 Registration Statement"), then any reference herein to the term "Registration Statement" shall be deemed to include such Rule 462 Registration Statement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Registration Statement and the Prospectus.

At or prior to the Applicable Time (as defined below), the Company had prepared the following information (collectively with the pricing information set forth on Annex A, the "Pricing Disclosure Package"): a Preliminary Prospectus dated [●], 2021 and each "free-writing prospectus" (as defined pursuant to Rule 405 under the Securities Act) listed on Annex A hereto.

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"Applicable Time" means [●] [A/P].M., New York City time, on [●], 2021.

2. Purchase of the Shares.

(a) The Company agrees to issue and sell the Underwritten Shares to the several Underwriters as provided in this underwriting agreement (this "Agreement"), and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase at a price per share of $[●] (the "Purchase Price") from the Company the respective number of Underwritten Shares set forth opposite such Underwriter's name in Schedule 1 hereto.

In addition, the Company agrees to issue and sell the Option Shares to the several Underwriters as provided in this Agreement, and the Underwriters, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, shall have the option to purchase, severally and not jointly, from the Company the Option Shares at the Purchase Price less an amount per share equal to any dividends or distributions declared by the Company and payable on the Underwritten Shares but not payable on the Option Shares.

If any Option Shares are to be purchased, the number of Option Shares to be purchased by each Underwriter shall be the number of Option Shares which bears the same ratio to the aggregate number of Option Shares being purchased as the number of Underwritten Shares set forth opposite the name of such Underwriter in Schedule 1 hereto (or such number increased as set forth in Section 10 hereof) bears to the aggregate number of Underwritten Shares being purchased from the Company by the several Underwriters, subject, however, to such adjustments to eliminate any fractional Shares as the Representatives in their sole discretion shall make.

The Underwriters may exercise the option to purchase Option Shares at any time in whole, or from time to time in part, on or before the thirtieth day following the date of the Prospectus, by written notice from the Representatives to the Company. Such notice shall set forth the aggregate number of Option Shares as to which the option is being exercised and the date and time when the Option Shares are to be delivered and paid for, which may be the same date and time as the Closing Date (as hereinafter defined) but shall not be earlier than the Closing Date nor later than the tenth full business day (as hereinafter defined) after the date of such notice (unless such time and

date are postponed in accordance with the provisions of Section 10 hereof). Any such notice shall be given at least two business days prior to the date and time of delivery specified therein.

(b) The Company understands that the Underwriters intend to make a public offering of the Shares, and initially to offer the Shares on the terms set forth in the Pricing Disclosure Package. The Company acknowledges and agrees that the Underwriters may offer and sell Shares to or through any affiliate of an Underwriter.

(c) Payment for the Shares shall be made by wire transfer in immediately available funds to the accounts specified by the Company to the Representatives in the case of the Underwritten Shares, at the offices of Davis Polk & Wardwell LLP, 450 Lexington Avenue New York, New York 10017 at 10:00 A.M. New York City time on [●], 2021, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing or, in the case of the Option Shares, on the date and at the time and place specified by the Representatives in the written notice of the Underwriters' election to purchase such Option Shares. The time and date of such payment for the Underwritten Shares is referred to herein as the "Closing Date," and the time and date for such payment for the Option Shares, if other than the Closing Date, is herein referred to as the "Additional Closing Date."

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Payment for the Shares to be purchased on the Closing Date or the Additional Closing Date, as the case may be, shall be made against delivery to the Representatives for the respective accounts of the several Underwriters of the Shares to be purchased on such date or the Additional Closing Date, as the case may be, with any transfer taxes payable in connection with the sale of such Shares duly paid by the Company. Delivery of the Shares shall be made through the facilities of The Depository Trust Company ("DTC") unless the Representatives shall otherwise instruct.

(d) The Company acknowledges and agrees that the Representatives and the other Underwriters are acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of Shares contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither the Representatives nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and neither the Representatives nor the other Underwriters shall have any responsibility or liability to the Company with respect thereto. Any review by the Representatives and the other Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company.

3. Representations and Warranties of the Company. Each of the Company, PHC LLC and the Partnership jointly and severally represents and warrants to each Underwriter that:

(a) *Preliminary Prospectus.* No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus included in the Pricing Disclosure Package, at the time of filing thereof, complied in all material respects with the Securities Act, and no Preliminary Prospectus, at the time of filing thereof, contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that none of the Company, PHC LLC or the Partnership makes any representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in any Preliminary Prospectus, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

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(b) *Pricing Disclosure Package*. The Pricing Disclosure Package as of the Applicable Time did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a

material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that none of the Company, PHC LLC or the Partnership makes any representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in such Pricing Disclosure Package, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof. No statement of material fact included in the Prospectus has been omitted from the Pricing Disclosure Package and no statement of material fact included in the Pricing Disclosure Package that is required to be included in the Prospectus has been omitted therefrom.

(c) *Issuer Free Writing Prospectus.* Other than the Registration Statement, the Preliminary Prospectus and the Prospectus, none of the Company, PHC LLC or the Partnership (including its agents and representatives, other than the Underwriters in their capacity as such) has prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any "written communication" (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Shares (each such communication by the Company, PHC LLC or the Partnership or their respective agents and representatives (other than a communication referred to in clause (i) below) an "Issuer Free Writing Prospectus") other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act or (ii) the documents listed on Annex A hereto, each electronic road show and any other written communications approved in writing in advance by the Representatives. Each such Issuer Free Writing Prospectus complies in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby) and does not conflict with the information contained in the Registration Statement or the Pricing Disclosure Package, and, when taken together with the Preliminary Prospectus filed prior to the first use of such Issuer Free Writing Prospectus, did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that none of the Company, PHC LLC or the Partnership makes any representation or warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus or Preliminary Prospectus in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in such Issuer Free Writing Prospectus or Preliminary Prospectus, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

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(d) *Emerging Growth Company*. From the time of initial confidential submission of the Registration Statement to the Commission through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an "Emerging Growth Company"). "Testing-the-Waters Communication" means any oral or written communication with potential investors undertaken in reliance on either Section 5(d) of, or Rule 163B under, the Securities Act.

(e) *Testing-the-Waters Materials.* None of the Company, PHC LLC or the Partnership (i) has alone engaged in any Testing-the-Waters Communications other than Testing-the-Waters Communications with the consent of the Representatives (x) with entities that are qualified institutional buyers ("QIBs") within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12), or, for family client that are institutions (a)(13) under the Securities Act ("IAIs") and otherwise in compliance with the requirements of Section 5(d) of the Securities Act or (y) with entities that the Company, PHC LLC and the Partnership reasonably believed to be QIBs or IAIs and otherwise in compliance with the requirements of Rule 163B under the Securities Act and (ii) has authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. Each of Company, PHC LLC and the Partnership reconfirms that the Representatives have been authorized to act on its behalf in undertaking Testing-the-Waters Communications by virtue of a writing substantially in the form of Exhibit A hereto. None of the Company, PHC LLC or the Partnership has distributed or approved for distribution any Written Testing-the-Waters Communications other than those listed on Annex B hereto. "Written Testing-the-Waters Communication" means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act. Any individual Written Testing-the-Waters Communication does not conflict with the information contained in the Registration Statement or the Pricing Disclosure Package, complied in all material respects with the Securities Act, and when taken together with the Pricing Disclosure Package as of the Applicable Time, did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will

not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) *Registration Statement and Prospectus.* The Registration Statement has been declared effective by the Commission. No order suspending the effectiveness of the Registration Statement has been issued by the Commission, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering of the Shares has been initiated or, to the knowledge of the Company, threatened by the Commission; as of the applicable effective date of the Registration Statement and any post-effective amendment thereto, the Registration Statement and any such post-effective amendment complied and will comply in all material respects with the Securities Act, and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of the Closing Date and as of the Additional Closing Date, as the case may be, the Prospectus will comply in all material respects with the Securities Act and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that none of the Company, PHC LLC or the Partnership makes any representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement and the Prospectus and any amendment or supplement thereto, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

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(g) *Financial Statements.* The financial statements (including the related notes thereto) of the Company and PHC LLC and its consolidated subsidiaries included in the Registration Statement, the Pricing Disclosure Package and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and present fairly in all material respects the financial position of the Company and PCH LLC and their consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") in the United States applied on a consistent basis throughout the periods covered thereby, and any supporting schedules included in the Registration Statement present fairly in all material respects the information required to be stated therein; and the other financial information included in the Registration Statement, the Pricing Disclosure Package and the Prospectus has been derived from the accounting records of the Company and PHC LLC and their consolidated subsidiaries and presents fairly in all material respects the information shown thereby; all disclosures included in the Registration Statement, the Pricing Disclosure Package and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of Commission) comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable; and the *pro forma* financial information and the related notes thereto included in the Registration Statement, the Pricing Disclosure Package and the Prospectus have been prepared in accordance with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and the assumptions underlying such pro forma financial information are reasonable and are set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(h) *No Material Adverse Change.* Since the date of the most recent financial statements of the Company and PHC LLC included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, (i) there has not been any change in the capital stock (other than the issuance of shares of Stock upon exercise of stock options and warrants described as outstanding in, and the grant of options and awards under existing equity incentive plans described in, the Registration Statement, the Pricing Disclosure Package and the Prospectus), any material change in short-term debt or long-term debt of the Company, the Partnership or any of their subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company or the Partnership on any class of capital stock, or any material adverse change, or any development that would reasonably be expected to result in a material adverse change, in or affecting the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company, the Partnership and their respective subsidiaries taken as a whole; (ii) none of the Company, PHC LLC, the Partnership or any of their respective subsidiaries has entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company, PHC LLC the Partnership or their respective subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company, PHC LLC, the Partnership and their respective subsidiaries taken as a whole; and (iii) none of the Company, PHC LLC, the Partnership or their respective subsidiaries has sustained any loss or interference with its business that is material to the Company, PHC LLC, the Partnership and their respective subsidiaries taken

as a whole and that is either from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, except in each case as otherwise disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

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(i) *Organization and Good Standing.* The Company, PHC LLC, the Partnership and each of their respective subsidiaries have been duly organized and are validly existing and in good standing under the laws of their respective jurisdictions of organization, are duly qualified to do business and are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company, PHC LLC, the Partnership and their respective subsidiaries taken as a whole or on the performance by the Company and the Partnership of their obligations under the Transaction Documents (a "Material Adverse Effect"). Immediately following the Formation Transactions, neither the Company nor the Partnership owns or controls, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Exhibit 21 to the Registration Statement.

(j) *Capitalization.* Immediately following the Formation Transactions, the Company will have an authorized capitalization as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the heading "Capitalization"; all (i) the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights and (ii) partnership interests in the Partnership have been duly and validly authorized and issued and are fully paid and are not subject to any pre-emptive or similar rights; except as described in or expressly contemplated by the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company, the Partnership or any of their respective subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company, the Partnership or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Company and the Partnership conforms in all material respects to the description thereof contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus; and all of the outstanding partnership interests of the Partnership that are owned directly or indirectly by the Company will be owned free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party.

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(k) *Stock Options.* With respect to the stock options (the "Stock Options") granted pursuant to the stock-based compensation plans of the Company, the Partnership and their respective subsidiaries (the "Company Stock Plans"), (i) each Stock Option intended to qualify as an "incentive stock option" under Section 422 of the Code so qualifies, (ii) each grant of a Stock Option was duly authorized no later than the date on which the grant of such Stock Option was by its terms to be effective (the "Grant Date") by all necessary corporate action, including, as applicable, approval by the board of directors of the Company (or a duly constituted and authorized committee thereof) and any required stockholder approval by the necessary number of votes or written consents, and the award agreement governing such grant (if any) was duly executed and delivered by each party thereto, (iii) each such grant was made in accordance with the terms of the Company Stock Plans, the Exchange Act and all other applicable laws and regulatory rules or requirements, including the rules of the New York Stock Exchange (the "NYSE") and any other exchange on which Company securities are traded, and (iv) each such grant was properly accounted for in accordance with GAAP in the financial statements (including the related notes) of the Company and PHC LLC and disclosed in the Company's filings with the Commission in accordance with the Exchange Act and all other applicable laws. None of the Company, PHC LLC or the Partnership has knowingly granted, and there is no and has been no policy or practice of the Company or the Partnership of granting, Stock Options prior to, or otherwise coordinating the grant of Stock Options with,

the release or other public announcement of material information regarding the Company or its subsidiaries or their results of operations or prospects.

(l) *Due Authorization.* Each of the Company, PHC LLC and the Partnership has full right, power and authority to execute and deliver the Transaction Documents to which it is a party and to perform its obligations thereunder as applicable; and all action required to be taken for the due and proper authorization, execution and delivery by it of this Agreement and the other Transaction Documents to which it is a party and the consummation by it of the transactions contemplated hereby and thereby has been duly and validly taken.

(m) *Underwriting Agreement.* This Agreement has been duly authorized, executed and delivered by each of the Company, PHC LLC and the Partnership.

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(n) *The Shares.* The Shares to be issued and sold by the Company hereunder have been duly authorized by the Company and, when issued and delivered and paid for as provided herein, will be duly and validly issued, will be fully paid and nonassessable and will conform to the descriptions thereof in the Registration Statement, the Pricing Disclosure Package and the Prospectus; and the issuance of the Shares is not subject to any preemptive or similar rights that have not been duly waived or satisfied. The Class A Common Stock and the Class B Common Stock to be issued by the Company pursuant to the Formation Transactions have been duly authorized and, when issued and delivered as provided therein, will be validly issued, fully paid and non-assessable and will conform to the description thereof in each of the Pricing Disclosure Package and the Prospectus; and the issuance of the shares of Class A Common Stock and the shares of Class B Common Stock is not subject to any preemptive or similar rights. All of the partnership interests of the Partnership outstanding as of the Closing Date have been duly authorized and, after giving effect to the Transactions, fully paid and validly issued, and to the extent owned by the Company, will be owned free and clear of any liens, encumbrances or claims.

(o) *Other Transaction Documents.* The Transaction Documents have been duly authorized, executed and delivered by each of the Company, PHC LLC and the Partnership to the extent a party thereto and constitute valid and legally binding agreements of the Company, PHC LLC and the Partnership, as applicable, enforceable against the Company and the Partnership, as applicable, in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(p) *Descriptions of the Formation Transactions and Transaction Documents*. Each Transaction Document conforms in all material respects to the description thereof contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(q) *No Violation or Default.* None of the Company, the Partnership or any of their respective subsidiaries is (i) in violation of its charter or by-laws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company, the Partnership or any of their respective subsidiaries is a party or by which the Company, the Partnership or any of their respective subsidiaries is bound or to which any property or asset of the Company, the Partnership or any of their respective subsidiaries is subject; or (iii) in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority having jurisdiction over the Company, the Partnership or any of their subsidiaries, except, in the case of clauses (ii) and (iii) above, for any such default or violation that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

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(r) *No Conflicts.* The execution, delivery and performance by the Company, PHC LLC and the Partnership of each of the Transaction Documents to which it is a party, the issuance and sale of the Shares and the consummation of

the transactions contemplated by the Transaction Documents or the Pricing Disclosure Package and the Prospectus will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, result in the termination, modification or acceleration of, or result in the creation or imposition of any lien, charge or encumbrance upon any property, right or asset of the Company, PHC LLC, the Partnership or any of their respective subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company, PHC LLC, the Partnership or any of their respective subsidiaries is a party or by which the Company, PHC LLC, the Partnership or any of their respective subsidiaries is bound or to which any property, right or asset of the Company, PHC LLC, the Partnership or any of their respective subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of the Company, PHC LLC, the Partnership or any of their respective subsidiaries or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (i) and (iii) above, for any such conflict, breach, violation, default, lien, charge or encumbrance that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) *No Consents Required.* No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by the Company, PHC LLC and the Partnership of each of the Transaction Documents to which it is a party, the issuance and sale of the Shares and the consummation of the transactions contemplated by the Transaction Documents, except for the registration of the Shares under the Securities Act and such consents, approvals, authorizations, orders and registrations or qualifications as may be required by the Financial Industry Regulatory Authority, Inc. ("FINRA") and under applicable state securities laws in connection with the purchase and distribution of the Shares by the Underwriters.

(t) *Legal Proceedings.* Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no legal, governmental or regulatory investigations, actions, demands, claims, suits, arbitrations, inquiries or proceedings ("Actions") pending to which the Company, the Partnership or any of their respective subsidiaries is or may reasonably be expected to become, a party or to which any property of the Company, the Partnership or any of their respective subsidiaries is or may reasonably be expected to become, the subject that, individually or in the aggregate, if determined adversely to the Company, the Partnership or any of their respective subsidiaries, could reasonably be expected to have a Material Adverse Effect; to the knowledge of the Company or the Partnership, no such Actions are threatened or contemplated by any governmental or regulatory authority or threatened by others; and (i) there are no current or pending Actions that are required under the Securities Act to be described in the Registration Statement, the Pricing Disclosure Package or the Prospectus that are not so described in the Registration Statement, the Pricing Disclosure Package and the Prospectus and (ii) there are no statutes, regulations or contracts or other documents that are required under the Securities Act to be filed as exhibits to the Registration Statement or described in the Registration Statement, the Pricing Disclosure Package or the Prospectus that are not so filed as exhibits to the Registration Statement or described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

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(u) *Independent Accountants*. KPMG LLP, who have certified certain financial statements of the Company and PHC LLC and their subsidiaries and is an independent registered public accounting firm with respect to the Company, PHC LLC or any of their respective subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

(v) *Title to Real and Personal Property*. The Company, the Partnership and their respective subsidiaries have good and marketable title in fee simple (in the case of real property) to, or have valid rights to lease or otherwise use, all items of real and personal property that are material to the respective businesses of the Company, the Partnership and their respective subsidiaries, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries or (ii) could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(w) *Intellectual Property.* (i) The Company, the Partnership and their respective subsidiaries own or have the right to use all patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, domain names and other source indicators, copyrights and copyrightable works, know-how, trade secrets, systems, procedures, proprietary or confidential information and all other worldwide intellectual property, industrial property and proprietary rights (collectively, "Intellectual Property") used in the conduct of their respective businesses; (ii) the Company's,

the Partnership's and their respective subsidiaries' conduct of their respective businesses does not infringe, misappropriate or otherwise violate any Intellectual Property of any person; (iii) none of the Company, the Partnership or their respective subsidiaries have received any written notice of any claim relating to Intellectual Property; and (iv) to the knowledge of the Company and the Partnership, the Intellectual Property of the Company, the Partnership and their respective subsidiaries is not being infringed, misappropriated or otherwise violated by any person.

(x) *No Undisclosed Relationships*. No relationship, direct or indirect, exists between or among the Company, PHC LLC, the Partnership or their respective subsidiaries, on the one hand, and the directors, officers, stockholders, customers, suppliers or other affiliates of the Company, PHC LLC, the Partnership or their respective subsidiaries, on the other, that is required by the Securities Act to be described in each of the Registration Statement and the Prospectus and that is not so described in such documents and in the Pricing Disclosure Package.

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(y) *Investment Company Act*. Neither the Partnership nor the Company is, nor, after giving effect to the offering and sale of the Shares and the application of the proceeds thereof as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, will be required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Investment Company Act").

(z) *Taxes.* The Company, the Partnership and their respective subsidiaries have paid all material federal, state, local and foreign taxes and filed all material tax returns required to be paid or filed through the date hereof; and except as otherwise disclosed in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, there is no known tax deficiency that has been, or would reasonably be expected to be, asserted against the Company or any of their subsidiaries or any of their respective properties or assets.

(aa) *Licenses and Permits.* The Company, the Partnership and their respective subsidiaries possess all applicable licenses, sub-licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, none of the Company, the Partnership or any of their respective subsidiaries has received notice of any revocation or modification of any such license, sub-license, certificate, permit or authorization that is material to the Company or has any reason to believe that any such license, sub-license, certificate, permit or authorization will not be renewed in the ordinary course.

(bb) *No Labor Disputes.* No labor disturbance by or dispute with employees of the Company, the Partnership or any of their respective subsidiaries exists or, to the best knowledge of the Company and the Partnership, is contemplated or threatened, and neither the Company nor the Partnership is aware of any existing or imminent labor disturbance by, or dispute with, the employees of any of its or its subsidiaries' principal suppliers, contractors or customers, except as would not reasonably be expected to have a Material Adverse Effect. None of the Company, the Partnership or any of their subsidiaries has received any notice of cancellation or termination with respect to any collective bargaining agreement to which it is a party.

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(cc) *Certain Environmental Matters*. (i) The Company, the Partnership and their respective subsidiaries (x) are in compliance with all, and have not violated any, applicable federal, state, local and foreign laws, rules, regulations, requirements, decisions, judgments, decrees, orders and other legally enforceable requirements relating to pollution or the protection of human health or safety, the environment, natural resources, hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"); (y) have received and are in compliance with all, and have not violated any, permits, licenses, certificates or other authorizations or approvals required of them under any Environmental Laws to conduct their respective businesses; and (z) have not received notice of any actual or potential liability under or relating to, or any actual

or potential violation of, any Environmental Laws, including for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice; (ii) there are no costs or liabilities associated with Environmental Laws of or relating to the Company, the Partnership or their respective subsidiaries, except in the case of each of (i) and (ii) above, for any such matter as would not, individually or in the aggregate, have a Material Adverse Effect; and (iii) except as described in each of the Pricing Disclosure Package and the Prospectus, (x) there is no proceeding that is pending, or that is known to be contemplated, against the Company, the Partnership or any of their respective subsidiaries under any Environmental Laws in which a governmental entity is also a party, other than such proceeding regarding which it is reasonably believed no monetary sanctions of $300,000 or more will be imposed, (y) the Company, the Partnership and their respective subsidiaries are not aware of any issues regarding compliance with Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that could reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company, the Partnership and their respective subsidiaries, and (z) none of the Company, the Partnership or their respective subsidiaries anticipates capital expenditures relating to any Environmental Laws that would be material to the Company, the Partnership and its subsidiaries taken as a whole.

(dd) *Compliance with ERISA*. (i) Each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), other than a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA for which the Company, the Partnership or any member of each of their respective "Controlled Groups" (defined as any entity, whether or not incorporated, that is under common control with the Company or the Partnership, as applicable, within the meaning of Section 4001(a)(14) of ERISA or any entity that would be regarded as a single employer with the Company or the Partnership, as applicable, under Section 414(b),(c),(m) or (o) of the Internal Revenue Code of 1986, as amended (the "Code")) would have any liability (each, a "Plan") has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no Plan has failed (whether or not waived), or is reasonably expected to fail, to satisfy the minimum funding standards (within the meaning of Section 302 of ERISA or Section 412 of the Code) applicable to such Plan; (iv) no Plan is, or is reasonably expected to be, in "at risk status" (within the meaning of Section 303(i) of ERISA) and no Plan that is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA is in "endangered status" or "critical status" (within the meaning of Sections 304 and 305 of ERISA) (v) the fair market value of the assets of each Plan that is required to be funded equals or exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan); (vi) no "reportable event" (within the meaning of Section 4043(c) of ERISA and the regulations promulgated thereunder) has occurred or is reasonably expected to occur with respect to a Plan; (vii) each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification; (viii) neither the Company nor any member of the Controlled Group has incurred, nor reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guarantee Corporation, in the ordinary course and without default) in respect of a Plan (including for this clause only a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA); and (ix) none of the following events has occurred or is reasonably likely to occur: (A) a material increase in the aggregate amount of contributions required to be made to all Plans by the Company, the Partnership of each of their respective Controlled Group affiliates in the current fiscal year of the Company, the Partnership and their respective Controlled Group affiliates compared to the amount of such contributions made in the Company's, the Partnership's and their respective Controlled Group affiliates' most recently completed fiscal year; or (B) a material increase in the Company, the Partnership and their respective subsidiaries' "accumulated post-retirement benefit obligations" (within the meaning of Accounting Standards Codification Topic 715-60) compared to the amount of such obligations in the Company, the Partnership and their respective subsidiaries' most recently completed fiscal year, except in each case with respect to the events or conditions set forth in (i) through (ix) hereof, as would not, individually or in the aggregate, have a Material Adverse Effect.

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(ee) *Disclosure Controls*. The Company, PHC LLC, the Partnership and their respective subsidiaries maintain an effective system of "disclosure controls and procedures" (as defined in Rule 13a-15(e) of the Exchange Act) that complies with the requirements of the Exchange Act and that has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including controls and procedures designed to ensure that such

information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure.

(ff) *Accounting Controls.* The Company, PHC LLC, the Partnership and their respective subsidiaries maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. The Company, PHC LLC, the Partnership and their respective subsidiaries maintain internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no material weaknesses in the Company's, PHC LLC's or the Partnership's internal controls. KPMG LLP and the Audit Committee of the Board of Directors (or equivalent body) of the Company, PHC LLC and the Partnership have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect the Company's, PHC LLC's and the Partnership's ability to record, process, summarize and report financial information; and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's, PHC LLC's and the Partnership's internal controls over financial reporting.

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(gg) *Insurance.* The Company, the Partnership and their respective subsidiaries have insurance covering their respective properties, operations, personnel and businesses, including business interruption insurance, which insurance is in amounts and insures against such losses and risks as are prudent and customary in the businesses in which the Company, the Partnership and their respective subsidiaries and their respective businesses; and none of the Company, the Partnership or any of their respective subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business.

(hh) *Cybersecurity; Data Protection.* The Company, the Partnership and their respective subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are reasonably believed by the Company to be adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company, the Partnership and their respective subsidiaries as currently conducted and, to the Company's knowledge, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company, the Partnership and their respective subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their businesses as currently conducted, and to the knowledge of the Company, there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company, the Partnership and their respective subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification, except for such failures as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

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(ii) *No Unlawful Payments.* None of the Company, PHC LLC, the Partnership or any of their respective subsidiaries, any director or officer nor, to the knowledge of the Company or the Partnership, any employee, agent, affiliate or other person associated with or acting on behalf of the Company, PHC LLC, the Partnership or any of their respective subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made or taken an act in furtherance of an offer, promise or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government official or employee, including of any government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offence under the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law; or (iv) made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit. The Company, PHC LLC, the Partnership and their respective subsidiaries have instituted, maintain and enforce, and will continue to maintain and enforce policies and procedures designed to promote and ensure compliance with all applicable anti-bribery and anti-corruption laws.

(jj) *Compliance with Anti-Money Laundering Laws*. The operations of the Company, PHC LLC, the Partnership and their respective subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable money laundering statutes of all jurisdictions where the Company, PHC LLC, the Partnership or any of their respective subsidiaries conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency (collectively, the "Anti-Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company, PHC LLC, the Partnership or any of their respective subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

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(kk) *No Conflicts with Sanctions Laws.* None of the Company, PHC LLC, the Partnership or any of their respective subsidiaries and director or officer nor, to the knowledge of the Company or the Partnership, any employee, agent, affiliate or other person associated with or acting on behalf of the Company, PHC LLC, the Partnership or any of their respective subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. government, (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked person"), the United Nations Security Council ("UNSC"), the European Union, Her Majesty's Treasury ("HMT") or other relevant sanctions authority (collectively, "Sanctions"), nor is the Company, the Partnership or any of their respective subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea and Syria (each, a "Sanctioned Country"); and the Company and the Partnership will not directly or indirectly use the proceeds of the offering of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is the subject or target of Sanctions, (ii) to fund or facilitate any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. For the past five years, none of the Company, PHC LLC, the Partnership or any of their respective subsidiaries have knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(ll) *No Restrictions on Subsidiaries*. No subsidiary of the Company, including the Partnership, is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or similar ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's properties or assets to the Company or the Partnership or any other subsidiary of the Company or the Partnership.

(mm) *No Broker's Fees.* None of the Company, PHC LLC, the Partnership or any of their respective subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid

claim against any of them or any Underwriter for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Shares.

(nn) *No Registration Rights*. Except as described in the Preliminary Prospectus, no person has the right to require the Company, the Partnership or any of their respective subsidiaries to register any securities for sale under the Securities Act by reason of the filing of the Registration Statement with the Commission or the issuance and sale of the Shares.

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(oo) *No Stabilization.* None of the Company, PHC LLC, the Partnership or any of their respective subsidiaries or affiliates has taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Shares.

(pp) *Margin Rules*. Neither the issuance, sale and delivery of the Shares nor the application of the proceeds thereof by the Company as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(qq) *Forward-Looking Statements.* No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) included or in any of the Registration Statement, the Pricing Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(rr) *Statistical and Market Data.* Nothing has come to the attention of the Company or the Partnership that has caused the Company or the Partnership to believe that the statistical and market-related data included in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus is not based on or derived from sources that are reliable and accurate in all material respects.

(ss) *Sarbanes-Oxley Act*. There is and has been no failure on the part of the Company, PHC LLC or the Partnership or, to the knowledge of the Company, PHC LLC or the Partnership, any of the Company's, PHC LLC's or the Partnership's directors or officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 related to loans.

(tt) *Status under the Securities Act*. At the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) under the Securities Act) of the Shares and at the date hereof, the Company was not and is not an "ineligible issuer," as defined in Rule 405 under the Securities Act. The Company has paid the registration fee for this offering pursuant to the applicable rules under the Securities Act or will pay such fee within the time period required by such rule (without giving effect to the proviso therein) and in any event prior to the Closing Date.

(uu) *No Ratings*. There are (and prior to the Closing Date, will be) no debt securities, convertible securities or preferred stock issued or guaranteed by the Company or any of its subsidiaries that are rated by a "nationally recognized statistical rating organization", as such term is defined in Section 3(a)(62) under the Exchange Act.

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(vv) *Directed Share Program*. The Company represents and warrants that (i) the Registration Statement, the Pricing Disclosure Package and the Prospectus, any Preliminary Prospectus and any Issuer Free Writing Prospectuses comply in all material respects, and any further amendments or supplements thereto will comply in all material respects, with any applicable laws or regulations of foreign jurisdictions in which the Pricing Disclosure Package, the Prospectus, any Preliminary Prospectus and any Issuer Free Writing Prospectus, as amended or supplemented, if applicable, are distributed in connection with the Directed Share Program, and that (ii) no authorization, approval, consent, license, order, registration or qualification of or with any government, governmental instrumentality or court, other than such as have been obtained, is necessary under the securities laws and regulations of foreign jurisdictions in which the Directed Shares are offered outside the United States. The

Company has not offered, or caused the underwriters to offer, Shares to any person pursuant to the Directed Share Program with the specific intent to unlawfully influence (i) a customer or supplier of the Company to alter the customer or supplier's level or type of business with the Company, or (ii) a trade journalist or publication to write or publish favorable information about the Company or its products.

4. Further Agreements of the Company and the Partnership. The Company, PHC LLC and the Partnership jointly and severally covenant and agree with each Underwriter that:

(a) *Required Filings.* The Company will file the final Prospectus with the Commission within the time periods specified by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, will file any Issuer Free Writing Prospectus to the extent required by Rule 433 under the Securities Act; and the Company will furnish copies of the Prospectus and each Issuer Free Writing Prospectus (to the extent not previously delivered) to the Underwriters in New York City prior to 10:00 A.M., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Representatives may reasonably request. The Company will pay the registration fee for this offering within the time period required by Rule 456(b)(1) under the Securities Act (without giving effect to the proviso therein) and in any event prior to the Closing Date.

(b) *Delivery of Copies.* The Company will deliver upon request, without charge, (i) to the Representatives, two signed copies of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith; and (ii) to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) and (B) during the Prospectus Delivery Period (as defined below), as many copies of the Prospectus (including all amendments and supplements thereto and each Issuer Free Writing Prospectus) as the Representatives may reasonably request. As used herein, the term "Prospectus Delivery Period" means such period of time after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters a prospectus relating to the Shares is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Shares by any Underwriter or dealer.

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(c) *Amendments or Supplements, Issuer Free Writing Prospectuses.* Before making, preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus, and before filing any amendment or supplement to the Registration Statement, the Pricing Disclosure Package or the Prospectus, the Company will furnish to the Representatives and counsel for the Underwriters a copy of the proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not make, prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives reasonably objects.

(d) *Notice to the Representatives.* The Company will advise the Representatives promptly, and confirm such advice in writing (which may be delivered by electronic mail), (i) when the Registration Statement has become effective; (ii) when any amendment to the Registration Statement has been filed or becomes effective; (iii) when any supplement to the Pricing Disclosure Package, the Prospectus, or any Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication or any amendment to the Prospectus has been filed or distributed; (iv) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information including, but not limited to, any request for information concerning any Testing-the-Waters Communication; (v) of the issuance by the Commission or any other governmental or regulatory authority of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package, or the Prospectus or any Written Testing-the-Waters Communication or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (vi) of the occurrence of any event or development within the Prospectus Delivery Period as a result of which the Prospectus, any of the Pricing Disclosure Package, or any Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Pricing Disclosure Package, or any such Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication is delivered to a purchaser, not misleading; and (vii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Shares for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package or the Prospectus or any Written Testing-the-Waters Communication or

suspending any such qualification of the Shares and, if any such order is issued, will obtain as soon as possible the withdrawal thereof.

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(e) *Ongoing Compliance.* (1) If during the Prospectus Delivery Period (i) any event or development shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and furnish to the Underwriters and to such dealers as the Representatives may designate such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with law and (2) if at any time prior to the Closing Date (i) any event or development shall occur or condition shall exist as a result of which the Pricing Disclosure Package as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Pricing Disclosure Package to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission (to the extent required) and furnish to the Underwriters and to such dealers as the Representatives may designate such amendments or supplements to the Pricing Disclosure Package as may be necessary so that the statements in the Pricing Disclosure Package as so amended or supplemented will not, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, be misleading or so that the Pricing Disclosure Package will comply with law.

(f) *Blue Sky Compliance.* The Company will qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Shares; provided that neither the Company nor the Partnership shall be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(g) *Earning Statement.* The Company will make generally available to its security holders and the Representatives as soon as practicable an earnings statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 of the Commission promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the "effective date" (as defined in Rule 158) of the Registration Statement; provided the Company will be deemed to have furnished such statement to security holders and the Representatives to the extent it is filed on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR").

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(h) *Clear Market.* For a period of 180 days after the date of the Prospectus, each of the Company and the Partnership will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly or submit to, or file with, the Commission a registration statement under the Securities Act relating to, any shares of Stock or any securities convertible into or exercisable or exchangeable for Stock, or publicly disclose the intention to undertake any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock or any such other securities, or any partnership interest in the Partnership, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, without the prior written consent of the Representatives, other than the Shares to be sold hereunder.

The restrictions described above do not apply to and prior written consent of the Representatives is not required with respect to (i) the issuance of shares of Stock or partnership units or securities convertible into or exercisable for shares of Stock or partnership units pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the settlement of RSUs (including net settlement), in each case

outstanding on the date of this Agreement and described in the Prospectus; (ii) grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of Stock, partnership units or securities convertible into or exercisable or exchangeable for shares of Stock or partnership units (whether upon the exercise of stock options or otherwise) to the Company's employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the Closing Date and described in the Prospectus, provided that such recipients enter into a lock-up agreement with the Underwriters; (iii) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of this Agreement and described in the Prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction; and (iv) sales and other transfers made by PHC LLC, the Company, the Partnership and their respective subsidiaries necessary to effect the Formation Transactions.

If the Representatives, in their sole discretion, agree to release or waive the restrictions set forth in a lock-up letter described in Section 6(k) hereof for an officer or director of the Company and provide the Company with notice of the impending release or waiver substantially in the form of Exhibit B hereto at least three business days before the effective date of the release or waiver, the Company agrees to announce the impending release or waiver substantially in the form of Exhibit C hereto through a major news service at least two business days before the effective date of the release or waiver.

(i) *Use of Proceeds.* Each of the Company and the Partnership will apply the net proceeds from the sale of the Shares and the Formation Transactions as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus under the heading "Use of proceeds".

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(j) *No Stabilization.* None of the Company, PHC LLC, the Partnership or any of their respective subsidiaries or affiliates will take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Stock.

(k) *Exchange Listing.* The Company will use its reasonable best efforts to list for, subject to notice of issuance, the Shares on the NYSE.

(l) *Reports.* So long as the Shares are outstanding, the Company will furnish to the Representatives, as soon as they are available, copies of all reports or other communications (financial or other) furnished to holders of the Shares, and copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange or automatic quotation system; provided the Company will be deemed to have furnished such reports and financial statements to the Representatives to the extent they are filed on the Commission's Electronic Data Gathering, Analysis, and Retrieval system.

(m) *Record Retention*. The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the Commission in accordance with Rule 433 under the Securities Act.

(n) *Filings.* The Company will file with the Commission such reports as may be required by Rule 463 under the Securities Act.

(o) *Directed Share Program.* The Company will comply in all material respects with all applicable securities and other laws, rules and regulations in each jurisdiction in which the Directed Shares are offered in connection with the Directed Share Program.

(p) *Emerging Growth Company*. The Company will promptly notify the Representatives if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of Shares within the meaning of the Securities Act and (ii) completion of the 180-day restricted period referred to in Section 4(h) hereof.

5. Certain Agreements of the Underwriters. Each Underwriter hereby represents and agrees that:

(a) It has not used and will not use, authorize use of, refer to or participate in the planning for use of, any "free writing prospectus", as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) other than (i) a free writing prospectus that contains no "issuer information" (as defined in

Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Preliminary Prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Annex A or prepared pursuant to Section 3(c) or Section 4(c) above (including any electronic road show), or (iii) any free writing prospectus prepared by such underwriter and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (i) or (iii), an "Underwriter Free Writing Prospectus").

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(b) It has not used and will not, without the prior written consent of the Company, use any free writing prospectus that contains the final terms of the Shares unless such terms have previously been included in a free writing prospectus filed with the Commission; *provided* that Underwriters may use a term sheet substantially in the form of Annex C hereto without the consent of the Company; *provided further* that any Underwriter using such term sheet shall notify the Company, and provide a copy of such term sheet to the Company, prior to, or substantially concurrently with, the first use of such term sheet.

(c) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

6. Conditions of Underwriters' Obligations. The obligation of each Underwriter to purchase the Underwritten Shares on the Closing Date or the Option Shares on the Additional Closing Date, as the case may be, as provided herein is subject to the performance by the Company and the Partnership, jointly and severally, of their respective covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order.* No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the Commission; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the Commission under the Securities Act (in the case of an Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Representations and Warranties.* The respective representations and warranties of the Company, PHC LLC and the Partnership contained herein shall be true and correct on the date hereof and on and as of the Closing Date or the Additional Closing Date, as the case may be; and the statements of the Company and its officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date or the Additional Closing Date, as the case may be.

(c) *No Material Adverse Change.* No event or condition of a type described in Section 3(h) hereof shall have occurred or shall exist, which event or condition is not described in the Pricing Disclosure Package (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Representatives makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

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(d) *Officer's Certificate.* The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, a certificate of the chief financial officer or chief accounting officer of the Company and one additional senior executive officer of the Company who is satisfactory to the Representatives (i) confirming that such officers have carefully reviewed the Registration Statement, the Pricing Disclosure Package and the Prospectus and, to the knowledge of such officers, the representations of the Company and the Partnership set forth in Sections 3(b) and 3(d) hereof are true and correct, (ii) confirming that the other representations and warranties of the Company and the Partnership in this Agreement are true and correct and that the Company and the Partnership have complied with all agreements and satisfied all

conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date or the Additional Closing Date, as the case may be, and (iii) to the effect set forth in paragraphs (a) and (c) above.

(e) *Comfort Letters.* (i) On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, KPMG LLP shall have furnished to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus; provided, that the letter delivered on the Closing Date or the Additional Closing Date, as the case may be, shall use a "cut-off" date no more than two business days prior to such Closing Date or such Additional Closing Date, as the case may be.

(ii) On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, the Company shall have furnished to the Representatives a certificate, dated the respective dates of delivery thereof and addressed to the Underwriters, of its chief financial officer with respect to certain financial data contained in the Pricing Disclosure Package and the Prospectus, providing "management comfort" with respect to such information, in form and substance reasonably satisfactory to the Representative.

(f) *Opinion and 10b-5 Statement of Counsel for the Company and the Partnership.* (i) Clifford Chance US LLP, counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion and 10b-5 statement, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex D-1 hereto, and (ii) Venable LLP, Maryland counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex D-2 hereto.

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(g) *Opinion and 10b-5 Statement of Counsel for the Underwriters.* The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion and 10b-5 statement, addressed to the Underwriters, of Davis Polk & Wardwell LLP, counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(h) *No Legal Impediment to Issuance and Sale.* No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares by the Company; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares by the Company.

(i) *Good Standing*. The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, satisfactory evidence of the good standing of the Company, the Partnership and their respective subsidiaries in their respective jurisdictions of organization and their good standing in such other jurisdictions as the Representatives may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate governmental authorities of such jurisdictions.

(j) *Exchange Listing.* The Shares to be delivered on the Closing Date or the Additional Closing Date, as the case may be, shall have been approved for listing on the NYSE, subject to official notice of issuance.

(k) *Lock-up Agreements*. The "lock-up" agreements, each substantially in the form of Exhibit D hereto, between you and certain shareholders, officers and directors of the Company relating to sales and certain other dispositions of shares of Stock or certain other securities, delivered to you on or before the date hereof, shall be in full force and effect on the Closing Date or the Additional Closing Date, as the case may be.

(l) *Additional Documents.* On or prior to the Closing Date or the Additional Closing Date, as the case may be, the Company shall have furnished to the Representatives such further certificates and documents as the Representatives may reasonably request.

(m) *Transactions Completed*. As of the Closing Date, the Transactions shall have been completed as described in the Prospectus; and each of the Transaction Documents shall have been executed and delivered or otherwise be in effect.

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All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters.* Each of the Company and the Partnership agrees to jointly and severally indemnify and hold harmless each Underwriter, its affiliates, directors and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Securities Act, any Written Testing-the-Waters Communication, any road show as defined in Rule 433(h) under the Securities Act (a "road show") or any Pricing Disclosure Package (including any Pricing Disclosure Package that has subsequently been amended), or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in paragraph (b) below.

(b) *Indemnification of the Company and the Partnership.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company and the Partnership and their respective directors and officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Preliminary Prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, any road show or any Pricing Disclosure Package (including any Pricing Disclosure Package that has subsequently been amended), it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the concession and reallowance figures appearing in the [●] paragraph under the caption "Underwriting", and the information contained in the [●] paragraph under the caption "Underwriting" relating to price stabilization, short positions and penalty bids ("Underwriter Information").

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(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to the preceding paragraphs of this Section 7, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 7 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to

notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under the preceding paragraphs of this Section 7. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section that the Indemnifying Person may designate in such proceeding and shall pay the fees and expenses in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be paid or reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by J.P. Morgan Securities LLC and Barclays Capital Inc. and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 90 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

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(d) *Contribution.* If the indemnification provided for in paragraphs (a) or (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters on the other, from the offering of the Shares or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company, on the one hand, and the Underwriters on the other, in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters on the other, shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Shares and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Shares. The relative fault of the Company, on the one hand, and the Underwriters on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability.* The Company, the Partnership and the Underwriters agree that it would not be just and equitable if contribution pursuant to paragraph (d) above were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses

incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of paragraphs (d) and (e), in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Shares exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to paragraphs (d) and (e) are several in proportion to their respective purchase obligations hereunder and not joint.

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(f) *Non-Exclusive Remedies.* The remedies provided for in this Section 7 paragraphs (a) through (e) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

(g) *Directed Share Program Indemnification.* The Company agrees to indemnify and hold harmless the Directed Share Underwriter, its affiliates, directors and officers and each person, if any, who controls the Directed Share Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act (each a "Directed Share Underwriter Entity") from and against any and all losses, claims, damages and liabilities (including, without limitation, any reasonable legal fees and other reasonable expenses incurred in connection with defending or investigating any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred) (i) caused by any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Participants in connection with the Directed Share Program or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) caused by the failure of any Participant to pay for and accept delivery of Directed Shares that the Participant agreed to purchase; or (iii) related to, arising out of, or in connection with the Directed Share Program, other than losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the bad faith or gross negligence of the Directed Share Underwriter Entities.

(h) In case any proceeding (including any governmental investigation) shall be instituted involving any Directed Share Underwriter Entity in respect of which indemnity may be sought pursuant to paragraph (f) above, the Directed Share Underwriter Entity seeking indemnity shall promptly notify the Company in writing and the Company, upon request of the Directed Share Underwriter Entity, shall retain counsel reasonably satisfactory to the Directed Share Underwriter Entity to represent the Directed Share Underwriter Entity and any others the Company may designate in such proceeding and shall pay the reasonable fees and disbursements of such counsel related to such proceeding. In any such proceeding, any Directed Share Underwriter Entity shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Directed Share Underwriter Entity unless (i) the Company and such Directed Share Underwriter Entity shall have mutually agreed to the retention of such counsel, (ii) the Company has failed within a reasonable time to retain counsel reasonably satisfactory to such Directed Share Underwriter Entity, (iii) the Directed Share Underwriter Entity shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Company or (iv) the named parties to any such proceeding (including any impleaded parties) include both the Company and the Directed Share Underwriter Entity and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. The Company shall not, in respect of the legal expenses of the Directed Share Underwriter Entities in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Directed Share Underwriter Entities. The Company shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Company agrees to indemnify the Directed Share Underwriter Entities from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time any Directed Share Underwriter Entity shall have requested the Company to reimburse such Directed Share Underwriter Entity for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the Company agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into in good faith more than 90 days after receipt by the Company of the aforesaid request and (ii) the Company shall not have reimbursed such Directed Share Underwriter Entity in accordance with such request prior to the date of such settlement. The Company shall not, without the prior written consent of the Directed Share Underwriter, effect any settlement of any pending or threatened proceeding in respect of which any Directed Share Underwriter Entity is or could have been a party and indemnity could have been sought hereunder by such Directed Share Underwriter Entity, unless (x) such settlement includes an unconditional release of the Directed Share Underwriter Entities from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of the Directed Share Underwriter Entity.

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(i) To the extent the indemnification provided for in paragraph (g) above is unavailable to a Directed Share Underwriter Entity or insufficient in respect of any losses, claims, damages or liabilities referred to therein (other than as a result of the limitations imposed on indemnification described in paragraph (g) above), then the Company in lieu of indemnifying the Directed Share Underwriter Entity thereunder, shall contribute to the amount paid or payable by the Directed Share Underwriter Entity as a result of such losses, claims, damages or liabilities (1) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Directed Share Underwriter Entities on the other hand from the offering of the Directed Shares or (2) if the allocation provided by clause 9(j)(1) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 9(i)(1) above but also the relative fault of the Company on the one hand and of the Directed Share Underwriter Entities on the other hand in connection with any statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Directed Share Underwriter Entities on the other hand in connection with the offering of the Directed Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Directed Shares (before deducting expenses) and the total underwriting discounts and commissions received by the Directed Share Underwriter Entities for the Directed Shares, bear to the aggregate public offering price of the Directed Shares. If the loss, claim, damage or liability is caused by an untrue or alleged untrue statement of material fact or the omission or alleged omission to state a material fact, the relative fault of the Company on the one hand and the Directed Share Underwriter Entities on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement or the omission or alleged omission relates to information supplied by the Company or by the Directed Share Underwriter Entities and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

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(j) The Company and the Directed Share Underwriter Entities agree that it would be not just or equitable if contribution pursuant to paragraph (i) above were determined by pro rata allocation (even if the Directed Share Underwriter Entities were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (i) above. The amount paid or payable by the Directed Share Underwriter Entities as a result of the losses, claims, damages and liabilities referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses reasonably incurred by the Directed Share Underwriter Entities in connection with investigating or defending such any action or claim. Notwithstanding the provisions of paragraph (h) above, no Directed Share Underwriter Entity shall be required to contribute any amount in excess of the amount by which the total price at which the Directed Shares distributed to the public were offered to the public exceeds the amount of any damages that such Directed Share Underwriter Entity has otherwise been required to pay. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in paragraphs (g) through (j) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(k) The indemnity and contribution provisions contained in paragraphs (g) through (j) shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Directed Share Underwriter Entity or the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Directed Shares.

8. Effectiveness of Agreement. This Agreement shall become effective as of the date first written above.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, if after the execution and delivery of this Agreement and on or prior to the Closing Date or, in the case of the Option Shares, prior to the Additional Closing Date (i) trading generally shall have been suspended or materially limited on or by any of the NYSE or the Nasdaq Stock Market; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representatives, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

10. Defaulting Underwriter.

(a) If, on the Closing Date or the Additional Closing Date, as the case may be, any Underwriter defaults on its obligation to purchase the Shares that it has agreed to purchase hereunder on such date, the non-defaulting Underwriters may in their discretion arrange for the purchase of such Shares by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Shares, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Shares on such terms. If other persons become obligated or agree to purchase the Shares of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date or the Additional Closing Date, as the case may be, for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 10, purchases Shares that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, does not exceed one-eleventh of the aggregate number of Shares to be purchased on such date, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Shares that such Underwriter agreed to purchase hereunder on such date plus such Underwriter's pro rata share (based on the number of Shares that such Underwriter agreed to purchase on such date) of the Shares of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, exceeds one-eleventh of the aggregate amount of Shares to be purchased on such date, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement or, with respect to any Additional Closing Date, the obligation of the Underwriters to purchase Shares on the Additional Closing Date, as the case may be, shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

11. Payment of Expenses.

(a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company and the Partnership jointly and severally will pay or cause to be paid all costs and expenses incident to the performance of their obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Shares and any taxes payable in that connection; (ii) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, the Preliminary Prospectus, any Issuer Free Writing Prospectus, any Pricing Disclosure Package and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the fees and expenses of the Company's and the Partnership's counsel and independent accountants; (iv) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Shares under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel for the Underwriters of up to $5,000); (v) the cost of preparing stock certificates; (vi) the costs and charges of

any transfer agent and any registrar; (vii) all expenses and application fees incurred in connection with any filing with, and clearance of the offering by, FINRA up to $35,000; (viii) all expenses incurred by the Company in connection with any "road show" presentation to potential investors; provided, however, that the Underwriters shall pay lodging, commercial airfare and other expenses attributable to employees of the Underwriters and one-half of the cost of any aircraft chartered in connection with the roadshow; (ix) all expenses and application fees related to the listing of the Shares on the NYSE; and (xi) all of the fees and disbursements of counsel incurred by the Underwriters in connection with the Directed Share Program and stamp duties, similar taxes or duties or other taxes, if any, incurred by the Underwriters in connection with the Directed Share Program.

(b) If (i) this Agreement is terminated pursuant to Section 9, (ii) the Company for any reason fails to tender the Shares for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Shares for any reason permitted under this Agreement, the Company and the Partnership jointly and severally agree to reimburse the Underwriters for all documented out-of-pocket costs and expenses (including the reasonable and documented fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby.

12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to herein, and the affiliates of each Underwriter referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Shares from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company, the Partnership and the Underwriters contained in this Agreement or made by or on behalf of the Company, the Partnership or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Shares and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company, the Partnership or the Underwriters or the directors, officers, controlling persons or affiliates referred to in Section 7 hereof.

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14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act; and (d) the term "significant subsidiary" has the meaning set forth in Rule 1-02 of Regulation S-X under the Exchange Act.

15. Compliance with USA Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

16. Miscellaneous.

(a) *Notices.* All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to the Representatives c/o J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179 (fax: (212) 622-8358); Attention: Equity Syndicate Desk; and Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019 (fax: (646) 834-8133); Attention: Syndicate Registration. Notices to the Company and the Partnership shall be given to it at _____, _____, _____, (fax:_____); Attention:_____.

(b) *Governing Law.* This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(c) *Submission to Jurisdiction*. Each of the Company, PHC LLC and the Partnership hereby submits to the exclusive jurisdiction of the U.S. federal and New York state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. Each of the Company, PHC LLC and the Partnership waives any objection which it may now or hereafter have to the laying of venue of any such suit or proceeding in such courts. Each of

the Company, PHC LLC and the Partnership agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company and the Partnership, as applicable, and may be enforced in any court to the jurisdiction of which Company and the Partnership is subject by a suit upon such judgment.

(d) *Waiver of Jury Trial.* Each of the parties hereto hereby waives any right to trial by jury in any suit or proceeding arising out of or relating to this Agreement.

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(e) *Recognition of the U.S. Special Resolution Regimes*.

(i) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

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

As used in this Section 16(g):

"BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"U.S. Special Resolution Regime" means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

(f) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

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(g) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(h) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

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If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

By: _____
Name:
Title:

PRESTON HOLLOW CAPITAL, LLC

By: _____
Name:
Title:

PHCC OP, LP

By: _____
Name:
Title:

Accepted: As of the date first written above

J.P. MORGAN SECURITIES LLC

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By: _____
Authorized Signatory

BARCLAYS CAPITAL INC.

For itself and on behalf of the
several Underwriters listed
in Schedule 1 hereto.

By: _____
Authorized Signatory

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Schedule 1

| Underwriters | Number of Shares |
|---|---|
| J.P. Morgan Securities LLC | |
| Barclays Capital Inc. | |
| UBS Securities LLC | |
| Piper Sandler & Co. | |
| Deutsche Bank Securities Inc. | |
| Loop Capital Markets LLC | |
| | |
| | |
| Total | |

Schedule 2

Formation Agreements

Annex A

a. **Pricing Disclosure Package**

[*Issuer Free Writing Prospectuses to be included in the Pricing Disclosure Package*]

b. **Pricing Information Provided Orally by Underwriters**

Price per Share: $[●]

Number of Shares: [●] Underwritten Shares, plus

[●] Options Shares

Annex B

Written Testing-the-Waters Communications

ANNEX C

[None]

Annex D-1

[Form of Opinion of Counsel for the Company and the Partnership]

Annex D-2

[Form of Opinion of Maryland Counsel for the Company and the Partnership]

Exhibit A

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Exhibit B

**[Form of Waiver of Lock-up]**

**J.P. MORGAN SECURITIES LLC**
**BARCLAYS CAPITAL INC.**

Preston Hollow Community Capital, Inc.
Public Offering of Class A Common Stock

, 2021

[Name and Address of
Officer or Director
Requesting Waiver]

Dear Mr./Ms. [Name]:

This letter is being delivered to you in connection with the offering by Preston Hollow Community Capital, Inc. (the "Company") of _____ shares of Class A common stock, $0.01 par value (the "Common Stock"), of the Company and the lock-up letter dated_____, 2021 (the "Lock-up Letter"), executed by you in connection with such offering, and your request for a [waiver] [release] dated_____, 2021, with respect to _____ shares of Common Stock (the "Shares").

Each of J.P. Morgan Securities LLC and Barclays Capital Inc. hereby agrees to [waive] [release] the transfer restrictions set forth in the Lock-up Letter, but only with respect to the Shares, effective _____, 2021; provided, however, that such [waiver] [release] is conditioned on the Company announcing the impending [waiver] [release] by press release through a major news service at least two business days before effectiveness of such [waiver] [release]. This letter will serve as notice to the Company of the impending [waiver] [release].

Except as expressly [waived] [released] hereby, the Lock-up Letter shall remain in full force and effect.

Yours very truly,

cc: Company

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Exhibit C

**Form of Press Release**

**Preston Hollow Community Capital, Inc.**
**[Date]**

Preston Hollow Community Capital, Inc. ("Company") announced today that J.P. Morgan Securities LLC and Barclays Capital Inc., the lead book-running managers in the Company's recent public sale of shares of Class A Common Stock, is [waiving] [releasing] a lock-up restriction with respect to shares of the Company's Class A Common Stock held by [certain officers or directors] [an officer or director] of the Company. The [waiver] [release] will take effect on _____, 2021, and the shares may be sold on or after such date.

**This press release is not an offer for sale of the securities in the United States or in any other jurisdiction where such offer is prohibited, and such securities may not be offered or sold in the United States absent registration or an exemption from registration under the United States Securities Act of 1933, as amended.**

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Exhibit D

FORM OF LOCK-UP AGREEMENT

_____, 2021

J.P. MORGAN SECURITIES LLC
BARCLAYS CAPITAL INC.

As Representatives of
the several Underwriters listed in
Schedule 1 to the Underwriting
Agreement referred to below

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, NY 10179

Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Re: Preston Hollow Community Capital, Inc. --- Public Offering

Ladies and Gentlemen:

The undersigned understands that you, as Representatives of the several Underwriters, propose to enter into an underwriting agreement (the "Underwriting Agreement") with Preston Hollow Community Capital, Inc., a Maryland corporation (the "Company"), providing for the public offering (the "Public Offering") by the several Underwriters named in Schedule 1 to the Underwriting Agreement (the "Underwriters"), of Class A common stock, of the Company (the "Securities"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Underwriting Agreement. References to shares of Common Stock shall be deemed to refer to shares of any class of stock of the Company.

In consideration of the Underwriters' agreement to purchase and make the Public Offering of the Securities, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of J.P. Morgan Securities LLC and Barclays Capital Inc. on behalf of the Underwriters, the undersigned will not, and will not cause any direct or indirect affiliate to, during the period beginning on the date of this letter agreement (this "Letter Agreement") and ending at the close of business 180 days after the date of the final prospectus relating to the Public Offering (the "Prospectus") (such period, the "Restricted Period"), (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or

contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (including without limitation, Common Stock or such other securities which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant or by the terms of a convertible or exchangeable security including partnership units of the Company's operating partnership) (collectively with the Common Stock, "Lock-Up Securities"), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Lock-Up Securities, in cash or otherwise, (3) make any demand for or exercise any right with respect to the registration of any Lock-Up Securities, or (4) publicly disclose the intention to do any of the foregoing. The undersigned acknowledges and agrees that the foregoing precludes the undersigned from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (whether by the undersigned or any other person) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any Lock-Up Securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Lock-Up Securities, in cash or otherwise. The undersigned further confirms that it has furnished J.P. Morgan Securities LLC and Barclays Capital Inc. with the details of any transaction the undersigned, or any of its affiliates, is a party to as of the date hereof, which transaction would have been restricted by this Letter Agreement if it had been entered into by the undersigned during the Restricted Period.

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Notwithstanding the foregoing, the undersigned may, without prior written of J.P. Morgan Securities LLC or Barclays Capital Inc.:

(a) transfer the undersigned's Lock-Up Securities:

(i) as a bona fide gift or gifts, or for bona fide estate planning purposes,

(ii) by will or intestacy,

(iii) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, or if the undersigned is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust (for purposes of this Letter Agreement, "immediate family" shall mean any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin),

(iv) to a partnership, limited liability company or other entity of which the undersigned and the immediate family of the undersigned are the legal and beneficial owner of all of the outstanding equity securities or similar interests,

(v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iv) above,

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(vi) if the undersigned is a corporation, partnership, limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate (as defined in Rule 405 promulgated under the Securities Act of 1933, as amended) of the undersigned, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the undersigned or affiliates of the undersigned (including, for the avoidance of doubt, where the undersigned is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (B) as part of a distribution to members, partners or shareholders of the undersigned,

(vii) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement,

(viii) to the Company from an employee of the Company upon death, disability or termination of employment, in each case, of such employee,

(ix) as part of a sale of the undersigned's Lock-Up Securities acquired in open market transactions after the closing date for the Public Offering,

(x) to the Company in connection with the vesting, settlement, or exercise of restricted stock units, options, warrants or other rights to purchase shares of Common Stock (including, in each case, by way of "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, settlement, or exercise of such restricted stock units, options, warrants or rights, provided that any such shares of Common Stock received upon such exercise, vesting or settlement shall be subject to the terms of this Letter Agreement, and provided further that any such restricted stock units, options, warrants or rights are held by the undersigned pursuant to an agreement or equity awards granted under a stock incentive plan or other equity award plan, each such agreement or plan which is described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, or

(xi) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the Board of Directors of the Company and made to all holders of the Company's capital stock involving a Change of Control (as defined below) of the Company (for purposes hereof, "Change of Control" shall mean the transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons, of shares of capital stock if, after such transfer, such person or group of affiliated persons would hold at least a majority of the outstanding voting securities of the Company (or the surviving entity)); provided that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, the undersigned's Lock-Up Securities shall remain subject to the provisions of this Letter Agreement;

provided that (A) in the case of any transfer or distribution pursuant to clause (a)(i), (ii), (iii), (iv), (v), (vi) and (vii), such transfer shall not involve a disposition for value and each donee, devisee, transferee or distributee shall execute and deliver to the Representatives a lock-up letter in the form of this Letter Agreement, (B) in the case of any transfer or distribution pursuant to clause (a) (i), (ii), (iii), (iv), (v), (vi), (ix) and (x), no filing by any party (donor, donee, devisee, transferor, transferee, distributer or distributee) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution (other than a filing on a Form 5 made after the expiration of the Restricted Period referred to above) and (C) in the case of any transfer or distribution pursuant to clause (a)(vii) and (viii) it shall be a condition to such transfer that no public filing, report or announcement shall be voluntarily made and if any filing under Section 16(a) of the Exchange Act, or other public filing, report or announcement reporting a reduction in beneficial ownership of shares of Common Stock in connection with such transfer or distribution shall be legally required during the Restricted Period, such filing, report or announcement shall clearly indicate in the footnotes thereto the nature and conditions of such transfer;

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(b) exercise outstanding options, settle restricted stock units or other equity awards or exercise warrants pursuant to plans described in the Registration Statement, the Pricing Disclosure Package and the Prospectus; provided that any Lock-up Securities received upon such exercise, vesting or settlement shall be subject to the terms of this Letter Agreement;

(c) convert outstanding preferred stock, warrants to acquire preferred stock or convertible securities into shares of Common Stock or warrants to acquire shares of Common Stock; provided that any such shares of Common Stock or warrants received upon such conversion shall be subject to the terms of this Letter Agreement;

(d) establish trading plans pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Lock-Up Securities; provided that (1) such plans do not provide for the transfer of Lock-Up Securities during the Restricted Period and (2) no filing by any party under the Exchange Act or other public announcement shall be required or made voluntarily in connection with such trading plan; and

(e) sell the Securities to be sold by the undersigned pursuant to the terms of the Underwriting Agreement.

If the undersigned is not a natural person, the undersigned represents and warrants that no single natural person, entity or "group" (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) beneficially owns, directly or indirectly, 50% or more of the common equity interests, or 50% or more of the voting power, in the undersigned.

If the undersigned is an officer or director of the Company, (i) J.P. Morgan Securities LLC and Barclays Capital Inc. on behalf of the Underwriters agree that, at least three business days before the effective date of any release or waiver of the foregoing restrictions in connection with a transfer of shares of Lock-Up Securities, J.P. Morgan Securities LLC and Barclays Capital Inc. on behalf of the Underwriters will notify the Company of the impending release or waiver, and (ii) the Company has agreed in the Underwriting Agreement to announce the impending release or waiver through a major news service at least two business days before the effective date of the release or waiver. Any release or waiver granted by J.P. Morgan Securities LLC and Barclays Capital Inc. on behalf of the Underwriters hereunder to any such officer or director shall only be effective two business days after the publication date of such announcement. The provisions of this paragraph will not apply if (a) the release or waiver is effected solely to permit a transfer not for consideration or that is to an immediate family member as defined in FINRA Rule 5130(i)(5) and (b) the transferee has agreed in writing to be bound by the same terms described in this letter to the extent and for the duration that such terms remain in effect at the time of the transfer.

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In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned acknowledges and agrees that the Underwriters have not provided any recommendation or investment advice nor have the Underwriters solicited any action from the undersigned with respect to the Public Offering of the Securities and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate. The undersigned further acknowledges and agrees that, although the Representatives may be required or choose to provide certain Regulation Best Interest and Form CRS disclosures to you in connection with the Public Offering, the Representatives and the other Underwriters are not making a recommendation to you to enter into this Letter Agreement, and nothing set forth in such disclosures is intended to suggest that the Representatives or any Underwriter is making such a recommendation.

The undersigned understands that, if the Underwriting Agreement does not become effective by _____, 2021, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Common Stock to be sold thereunder, the undersigned shall be released from all obligations under this Letter Agreement. The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the Public Offering in reliance upon this Letter Agreement.

This Letter Agreement and any claim, controversy or dispute arising under or related to this Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

[*NAME OF STOCKHOLDER*]

By: _____
Name:
Title:

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**Exhibit 3.2**

**PRESTON HOLLOW CAPITAL CORPORATION, INC.**

**FORM OF AMENDED AND RESTATED BYLAWS**

## ARTICLE I

## OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

## ARTICLE II

## MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 3. SPECIAL MEETINGS.

(a) General. Each of the chair of the board, chief executive officer, president and Board of Directors may call a special meeting of stockholders. Except as provided in subsection (b)(4) of this Section 3, a special meeting of stockholders shall be held on the date and at the time and place set by the chair of the board, chief executive officer, president or Board of Directors, whoever has called the meeting. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting (the "Special Meeting Percentage").

(b) Stockholder-Requested Special Meetings. (1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information relating to each such stockholder and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a meeting of stockholders, one or more written requests for a special meeting (collectively, the "Special Meeting Request") signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than the Special Meeting Percentage shall be delivered to the secretary. In addition, the Special Meeting Request shall (a) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the secretary), (b) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (c) set forth (i) the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (ii) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (iii) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (d) be sent to the secretary by registered mail, return receipt requested, and (e) be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke his, her or its request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation's proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.



(4) In the case of any special meeting called by the secretary upon the request of stockholders (a "Stockholder-Requested Meeting"), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; *provided*, however, that the date of any Stockholder-Requested Meeting shall be not more than 90 days after the record date for such meeting (the "Meeting Record Date"); and *provided further* that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the "Delivery Date"), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the 90$^{th}$ day after the Meeting Record Date or, if such 90$^{th}$ day is not a Business Day (as defined below), on the first preceding Business Day; and *provided further* that in the event that the Board of Directors fails to designate a place for a Stockholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within 30 days after the Delivery Date, then the close of business on the 30$^{th}$ day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of paragraph (3) of this Section 3(b).

(5) If written revocations of the Special Meeting Request have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the secretary: (i) if the notice of meeting has not already been delivered, the secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation's intention to revoke the notice of the meeting or for the chair of the meeting to adjourn the meeting without action on the matter, (A) the secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chair of the meeting may call the meeting to order and adjourn the meeting from time to time without acting on the matter. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The chair of the board, chief executive officer, president or Board of Directors may appoint independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the inspectors to perform

such review, no such purported Special Meeting Request shall be deemed to have been received by the secretary until the earlier of (i) five Business Days after actual receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).



(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Section 4. NOTICE. Not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business, by electronic transmission or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(3) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten days prior to such date and otherwise in the manner set forth in this section.



Section 5. ORGANIZATION AND CONDUCT. Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chair of the meeting or, in the absence of such appointment or appointed individual, by the chair of the board or, in the case of a vacancy in the office or absence of the chair of the board, by one of the following individuals present at the meeting in the following order: the lead independent director, if there is one, the chief executive officer, the president, the vice presidents in their order of rank and, within each rank, in their order of seniority, the secretary, or, in the absence of such officers, a chair chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary or, in the case of a vacancy in the office or absence of the secretary, an assistant secretary or an individual appointed by the Board of Directors or the chair of the meeting shall act as secretary. In the event that the secretary presides at a meeting of stockholders, an assistant secretary, or, in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chair of the meeting, shall record the minutes of the meeting. Even if present at the meeting, the person holding the office named herein may delegate to another person the power to act as chair or secretary of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chair of the meeting. The chair of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chair and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance or participation at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chair of the meeting may determine; (c) recognizing speakers at the meeting

and determining when and for how long speakers and any individual speaker may address the meeting; (d) determining when and for how long the polls should be opened and when the polls should be closed and when announcement of the results should be made; (e) maintaining order and security at the meeting; (f) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chair of the meeting; (g) concluding a meeting or recessing or adjourning the meeting, whether or not a quorum is present, to a later date and time and at a place either (i) announced at the meeting or (ii) provided at a future time through means announced at the meeting; and (h) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with any rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "Charter") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chair of the meeting may adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. The date, time and place of the meeting, as reconvened, shall be either (i) announced at the meeting or (ii) provided at a future time through means announced at the meeting.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute, by the Charter or by these Bylaws. Unless otherwise provided by statute or by the Charter, each outstanding share of stock, regardless of class, entitles the holder thereof to cast one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be *viva voce* unless the chair of the meeting shall order that voting be by ballot or otherwise.



Section 8. PROXIES. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by applicable law. Such proxy or evidence of authorization of such proxy shall be filed with the record of the proceedings of the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, joint venture, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, manager, general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or fiduciary, in such capacity, may vote stock registered in such trustee's or fiduciary's name, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions

with respect to the procedure which the Board of Directors considers necessary or appropriate. On receipt by the secretary of the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors or the chair of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the chair of the meeting, the inspectors, if any, shall (a) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (b) receive and tabulate all votes, ballots or consents, (c) report such tabulation to the chair of the meeting, (d) hear and determine all challenges and questions arising in connection with the right to vote, and (e) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be *prima facie* evidence thereof.



Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS.

(a) Annual Meetings of Stockholders. (1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150$^{th}$ day nor later than 5:00 p.m., Eastern Time, on the 120$^{th}$ day prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting; provided, however, that in connection with the Corporation's first annual meeting or in the event that the date of the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of the preceding year's annual meeting, in order for notice by the stockholder to be timely, such notice must be so delivered not earlier than the 150$^{th}$ day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120$^{th}$ day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) Such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "Proposed Nominee"), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act;

(ii) as to any other business that the stockholder proposes to bring before the meeting, a description of such business, the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation (collectively, the "Company Securities"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person,

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person, and

(C) whether and the extent to which such stockholder, Proposed Nominee or Stockholder Associated Person, directly or indirectly (through brokers, nominees or otherwise), is subject to or during the last six months has engaged in any hedging, derivative or other transaction or series of transactions or entered into any other agreement, arrangement or understanding (including any short interest, any borrowing or lending of securities or any proxy or voting agreement), the effect or intent of which is to (I) manage risk or benefit of changes in the price of Company Securities for such stockholder, Proposed Nominee or Stockholder Associated Person or (II) increase or decrease the voting power of such stockholder, Proposed Nominee or Stockholder Associated Person in the Corporation disproportionately to such person's economic interest in the Company Securities.

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person;



(v) the name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal; and

(vi) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director or the proposal of other business.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by a written undertaking executed by the Proposed Nominee (i) that such Proposed Nominee (a) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation and (b) will serve as a director of the Corporation if elected; and (ii) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request by the stockholder providing the notice, and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded).

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by this Section 11(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean (i) any person acting in concert with such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depositary) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.



(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting and, except as contemplated by and in accordance with the next two sentences of this Section 11(b), no stockholder may nominate an individual for election to the Board of Directors or make a proposal of other business to be considered at a special meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (i) by or at the direction of the Board of Directors, or (ii) provided that the special meeting has been called in accordance with Section 3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 11 and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the information required by paragraphs (a)(3) and (4) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120$^{th}$ day prior to such special meeting and not later than 5:00 p.m., Eastern Time**,** on the later of the 90$^{th}$ day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) General. (1) If information submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders shall be inaccurate in any material respect, such information may be deemed not to have been provided in accordance with this Section 11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two Business Days of becoming aware of such inaccuracy or change) in any such information. Upon written request by the secretary or the Board of Directors, any such stockholder shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), (A) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11, and (B) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting) submitted by the stockholder pursuant to this Section 11 as of an earlier date. If a stockholder fails to provide such written verification or written update within such period, the information as to which written verification or a written update was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. The chair of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) For purposes of this Section 11, "the date of the proxy statement" shall have the same meaning as "the date of the company's proxy statement released to shareholders" as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. "Public announcement" shall mean disclosure (A) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (B) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(4) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, any proxy statement filed by the Corporation with the Securities and Exchange Commission pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person under Section 14(a) of the Exchange Act.

(5) Notwithstanding anything in these Bylaws to the contrary, except as otherwise determined by the chair of the meeting, if the stockholder giving notice as provided for in this Section 11 does not appear in person or by proxy at such annual or special meeting to present each nominee for election as a director or the proposed business, as applicable, such matter shall not be considered at the meeting.

Section 12. TELEPHONE AND REMOTE COMMUNICATION MEETINGS. The Board of Directors or chair of the meeting may permit one or more stockholders to participate in a meeting by means of a conference telephone or other communications equipment in any manner permitted by Maryland law. In addition, the Board of Directors may determine that a meeting not be held at any place, but instead may be held solely by means of remote communications in any matter permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

Section 13. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law, or any successor statute (the "MGCL"), shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

Section 14. STOCKHOLDERS' CONSENT IN LIEU OF MEETING. Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting if a unanimous consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of proceedings of the stockholders.



## ARTICLE III

## DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. NUMBER, TENURE AND RESIGNATION. A majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than 15, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Any director of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chair of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time

specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chair of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place of any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone or electronic mail shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.



Section 6. QUORUM. A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a specified group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. VOTING. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum, but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chair of the board or, in the absence of the chair, the chief executive officer shall act as chair of the meeting. Even if present at the meeting, the director named herein may designate another director to act as chair of the meeting. In the absence of both the chair of the board and chief executive officer the chief executive officer or, in the absence of all such individuals, the president or, in the absence of the president, a director chosen by a majority of the directors present, shall act as chair of the meeting. The secretary or, in his or her absence, an assistant secretary of the Corporation, or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chair of the meeting, shall act as secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. CONSENT BY DIRECTORS WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 11. VACANCIES. If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Except as may be provided by the Board of Directors in setting the terms of any class or series of preferred stock, any vacancy on the Board of Directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director elected to fill a vacancy shall serve for the remainder of the full term of the class in which the vacancy occurred and until a successor is elected and qualifies.



Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. RELIANCE. Each director and officer of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 14. RATIFICATION. The Board of Directors or the stockholders may ratify any act, omission, failure to act or determination made not to act (an "Act") by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the Act and, if so ratified, such Act shall have the same force and effect as if originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders. Any Act questioned in any proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and such ratification shall constitute a bar to any claim or execution of any judgment in respect of such questioned Act.

Section 15 CERTAIN RIGHTS OF DIRECTORS. Any director, in his or her capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.



## ARTICLE IV

## COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members one or more other committees, composed of one or more directors, to serve at the pleasure of the Board of Directors. In the

absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 2. POWERS. The Board of Directors may delegate to any committee appointed under Section 1 of this Article any of the powers of the Board of Directors, except as prohibited by law. Except as may be otherwise provided by the Board of Directors, any committee may delegate some or all of its power and authority to one or more subcommittees, composed of one or more directors, as the committee deems appropriate in its sole discretion.

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors, or in the absence of such designation, the applicable committee, may designate a chair of any committee, and such chair or, in the absence of a chair, any two members of any committee (if there are at least two members of the committee) may fix the time and place of its meeting unless the Board shall otherwise provide.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. CONSENT BY COMMITTEES WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to appoint the chair of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.



## ARTICLE V

## OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chair of the board, a vice chair of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or appropriate. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chair of the board, the lead independent director, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIR OF THE BOARD. The Board of Directors may designate from among its members a chair of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chair of the board as an executive or non-executive chair. The chair of the board shall preside over the meetings of the Board of Directors. The chair of the board shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chair of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.



Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 8. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president, senior vice president, or vice president for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. COMPENSATION. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director.

## ARTICLE VI

## CONTRACTS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer, or any other officer designated by the Board of Directors may determine.



## ARTICLE VII

## STOCK

Section 1. CERTIFICATES. Except as may be otherwise provided by the Board of Directors or any officer of the Corporation, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in any manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no difference in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. TRANSFERS. All transfers of shares of stock shall be made on the books of the Corporation in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors or an officer of the Corporation that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, the Corporation shall provide to the record holders of such shares, to the extent then required by the MGCL, a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors or an officer of the Corporation has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such record date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.



When a record date for the determination of stockholders entitled to notice of or to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if postponed or adjourned, except if the meeting is postponed or adjourned to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may authorize the Corporation to issue fractional shares of stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may authorize the issuance of units consisting of different securities of the Corporation.

## ARTICLE VIII

## ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

## ARTICLE IX

## DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividend or other distribution, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its sole discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.



## ARTICLE X

## SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

## ARTICLE XIII

## WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

## ARTICLE XIV

## EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Baltimore Division, shall be the sole and exclusive forum for (a) any Internal Corporate Claim, as such term is defined in the MGCL, or any successor provision thereof, (b) any derivative action or proceeding brought on behalf of the Corporation, other than actions arising under federal securities laws, (c) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation, (d) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL or the Charter or these Bylaws, or (e) any other action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine. None of the foregoing actions, claims or proceedings may be brought in any court sitting outside the State of Maryland unless the Corporation consents in writing to such court. This paragraph of Article XIV does not apply to claims arising under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. This paragraph of Article XIV does not apply to claims arising under the Exchange Act.

## ARTICLE XV

## AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

**Exhibit 4.1**

Number *0* Shares *0*

**SEE REVERSE FOR IMPORTANT NOTICE AND OTHER INFORMATION**

THIS CERTIFICATE IS TRANSFERABLE IN THE CITIES OF _____ CUSIP 741172 100

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**
a Corporation Formed Under the Laws of the State of Maryland

THIS CERTIFIES THAT **Specimen** is the owner of **Zero (0)** fully paid and nonassessable shares of Class A Common Stock, $0.01 par value per share, of

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

(the "Corporation") transferable on the books of the Corporation by the holder hereof in person or by its duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the charter of the Corporation (the "Charter") and the Bylaws of the Corporation and any amendments or supplements thereto. This Certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be executed on its behalf by its duly authorized officers.

DATED: _____

Countersigned and Registered:
Transfer Agent
and Registrar

By:_____
Authorized Signature

_____(SEAL)
Chief Executive Officer

_____
Secretary

---

**IMPORTANT NOTICE**

The Corporation will furnish to any stockholder, on request and without charge, a full statement of the information required by Section 2-211(b) of the Corporations and Associations Article of the Annotated Code of Maryland with respect to the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation has authority to issue and, if the Corporation is authorized to issue any preferred or special class in series, (i) the differences in the relative rights and preferences between the shares of each series to the extent set, and (ii) the authority of the Board of Directors to set such rights and preferences of subsequent series. Such request must be made to the Secretary of the Corporation at its principal office.

KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN OR DESTROYED, THE CORPORATION MAY REQUIRE
A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.

The following abbreviations, when used in the inscription on the face of this Certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT _____ Custodian _____

(Custodian) (Minor)

Under the Uniform Gifts to Minors Act of _____

(State)

FOR VALUE RECEIVED, _____HEREBY SELLS, ASSIGNS AND TRANSFERS UNTO

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(NAME & ADDRESS, INCLUDING ZIP CODE & SS# OR OTHER IDENTIFYING # OF ASSIGNEE)

_____(_____) shares of stock of the Corporation represented by this Certificate and does hereby irrevocably constitute and appoint _____attorney to transfer the said shares on the books of the Corporation, with full power of substitution in the premises.

Dated: _____

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NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY OTHER CHANGE.

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**Exhibit 4.2**

Number *0* Shares *0*

**SEE REVERSE FOR IMPORTANT NOTICE ON TRANSFER RESTRICTIONS AND OTHER INFORMATION**

THIS CERTIFICATE IS TRANSFERABLE IN THE CITIES OF _____ CUSIP 741172 209

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**
a Corporation Formed Under the Laws of the State of Maryland

THIS CERTIFIES THAT **Specimen** is the owner of **Zero (0)** fully paid and nonassessable shares of Class B Common Stock, $0.01 par value per share, of

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

(the "Corporation") transferable on the books of the Corporation by the holder hereof in person or by its duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the charter of the Corporation (the "Charter") and the Bylaws of the Corporation and any amendments or supplements thereto. This Certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be executed on its behalf by its duly authorized officers.

DATED: _____

Countersigned and Registered:
Transfer Agent and Registrar

_____(SEAL)
Chief Executive Officer

By: _____ _____
Authorized Signature Secretary

---

**IMPORTANT NOTICE**

The Corporation will furnish to any stockholder, on request and without charge, a full statement of the information required by Section 2-211(b) of the Corporations and Associations Article of the Annotated Code of Maryland with respect to the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation has authority to issue and, if the Corporation is authorized to issue any preferred or special class in series, (i) the differences in the relative rights and preferences between the shares of each series to the extent set, and (ii) the authority of the Board of Directors to set such rights and preferences of subsequent series. Such request must be made to the Secretary of the Corporation at its principal office.

The shares represented by this certificate are subject to restrictions on transfer as set forth in the Charter, as the same may be amended or supplemented from time to time. The Charter, including a full statement about certain restrictions on transfer, will be furnished to each stockholder on request and without charge. Requests for such a copy may be directed to the Secretary of the Corporation at its principal office.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE OR SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISTRIBUTED EXCEPT IN CONJUNCTION WITH AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OR PURSUANT TO AN EXEMPTION THEREFROM.

KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN OR DESTROYED, THE CORPORATION MAY REQUIRE
A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.

The following abbreviations, when used in the inscription on the face of this Certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

| | | | |
|---|---|---|---|
| TEN COM - | as tenants in common | UNIF GIFT MIN ACT _____ (Custodian) | Custodian _____ (Minor) |
| TEN ENT - | as tenants by the entireties | | |
| JT TEN - | as joint tenants with right of survivorship and not as tenants in common | Under the Uniform Gifts to Minors Act of _____ (State) | |

FOR VALUE RECEIVED, _____HEREBY SELLS, ASSIGNS AND TRANSFERS UNTO

_____

(NAME & ADDRESS, INCLUDING ZIP CODE & SS# OR OTHER IDENTIFYING # OF ASSIGNEE)

_____(_____) shares of stock of the Corporation represented by this Certificate and does hereby irrevocably constitute and appoint _____ attorney to transfer the said shares on the books of the Corporation, with full power of substitution in the premises.

Dated: _____

_____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY OTHER CHANGE.

_____

**EXHIBIT 5.1**

**CLIFFORD CHANCE US LLP**

31 WEST 52ND STREET
NEW YORK, NY 10019-6131

TEL +1 212 878 8000
FAX +1 212 878 8375

www.cliffordchance.com

July 26, 2021

Preston Hollow Community Capital, Inc.
1717 Main Street, Suite 3900
Dallas, Texas 75201

Ladies and Gentlemen:

We have acted as counsel to Preston Hollow Community Capital, Inc., a Maryland corporation (the "Company"), in connection with the registration statement on Form S-1 (File No. 333-257713) (the "Registration Statement") filed by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), and in connection with the offer and sale by the Company of up to 12,105,264 shares of Class A common stock, par value $0.01 per share (the "Shares"), including up to 1,578,947 Shares that may be sold pursuant to the underwriters' option to purchase additional shares, in an underwritten initial public offering, which are to be sold by the Company pursuant to an Underwriting Agreement (the "Underwriting Agreement"), by and among the Company, J.P. Morgan Securities LLC and Barclays Capital Inc., as representatives of the several underwriters named therein.

In rendering the opinion expressed below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such records, documents, certificates and other instruments as in our judgment are necessary or appropriate. As to factual matters relevant to the opinion set forth below, we have, with your permission, relied upon certificates of officers of the Company and public officials.

Based on the foregoing, and such other examination of law as we have deemed necessary, we are of the opinion that following the (i) issuance of the Shares pursuant to the terms of the Underwriting Agreement and (ii) receipt by the Company of the consideration for the Shares specified in the resolutions of the board of directors of the Company, the Shares will be legally issued, fully paid, and nonassessable.

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**CLIFFORD CHANCE US LLP**

This foregoing opinion is based as to matters of law solely on the applicable provisions of the Maryland General Corporation Law, as amended, currently in effect. We express no opinion herein as to any other laws, statutes, ordinances, rules, or regulations.

We consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to us under the caption "Legal matters" in the Registration Statement. In giving this consent, we do not concede that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Clifford Chance

**Exhibit 10.1**

CLIFFORD CHANCE

CLIFFORD CHANCE US LLP

Dated as of [●], 2021

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

and

PRESTON HOLLOW CAPITAL, LLC

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FORM OF SHARED RESOURCES AND COOPERATION AGREEMENT

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**TABLE OF CONTENTS**

**Schedules**





## FORM OF SHARED RESOURCES AND COOPERATION AGREEMENT

This SHARED RESOURCES AND COOPERATION AGREEMENT (this "**Agreement**"), dated as of [ ], 2021, is entered into by and between PRESTON HOLLOW COMMUNITY CAPITAL, INC., a Maryland corporation ("**PHCC**") and PRESTON HOLLOW CAPITAL, LLC, a Delaware limited liability company ("**PHC LLC**").

WHEREAS, PHCC intends to conduct an initial public offering (the "**IPO**") of its shares of class A common stock, par value $0.01 per share;

WHEREAS, prior to the completion of the IPO, PHCC's impact finance business has been operated as part of PHC LLC;

WHEREAS, in connection with the IPO, the parties have entered into that certain Contribution Agreement, dated as of [ ], 2021, pursuant to which PHC LLC will contribute all of its impact finance business to PHCC's operating partnership subsidiary, PHCC OP, LP, a Delaware limited partnership (the "**Contribution Transaction**"); and

WHEREAS, following the consummation of the Contribution Transaction, PHC LLC will require assistance in the eventual wind-down of its retained business, and PHCC desires to assist PHC LLC by providing certain services, facilities, equipment and other resources to support PHC LLC.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained in this Agreement, the parties hereto agree as follows:

### ARTICLE I

### SERVICES

Section 1.1 **Services**. During the Term (as defined in Section 2.1) and subject to the terms of this Agreement, PHCC shall provide, or shall cause a PHCC subsidiary to provide, to PHC LLC the services set forth on Schedule A hereto (each a "**Service**" and collectively the "**Services**").

Section 1.2 **Standard of Care**. PHCC shall provide and shall cause its subsidiaries and affiliates to provide such Services exercising the same degree of care, priority and diligence as it exercises in performing the same or similar services for itself and its subsidiaries.

Section 1.3 **Modification of Services**. Schedule A identifies the Services to be provided by PHCC and, subject to the mutual agreement of the parties hereto acting reasonably, it may be amended from time to time, to add any additional Services or to modify or delete Services.

Section 1.4 **Non-Exclusivity**. Nothing in this Agreement shall preclude PHC LLC from obtaining, in whole or in part, services of any nature that may be obtainable from PHCC, from providers other than PHCC, and nothing in this Agreement shall preclude PHCC from providing services of any nature to parties other than PHC LLC.

Section 1.5 **Cooperation**. PHC LLC shall, in a timely manner, take all such actions as may be reasonably necessary or desirable in order to enable or assist PHCC in the provision of the Services, including providing necessary information and specific written authorizations and consents, and PHCC shall be relieved of its obligations hereunder to the extent that PHC LLC's failure to take any such action renders performance by PHCC of such obligations unlawful or impracticable.

Section 1.6 **Limitation on Services**. PHCC shall not be required to expand its facilities, incur new long-term capital expenses or employ additional personnel in order to provide the Services to PHC LLC, unless mutually agreed in writing by the parties hereto. Subject to Sections 1.1 and 1.2, nothing contained in this Agreement shall prevent or restrict PHCC from expanding or relocating its office facilities or replacing existing employees, equipment or service providers in its sole discretion.

Section 1.7 **Personnel and Subcontracting of Services**. In providing the Services, PHCC as it deems necessary or appropriate in its sole discretion, may (a) use the personnel of PHCC or its affiliates and (b) employ on a short or long-term basis the services of third parties to the extent such third party services are reasonably necessary for the efficient performance of any of such Services. PHC LLC may retain at its own expense its own consultants and other professional advisers.

## ARTICLE II

## TERM AND TERMINATION

Section 2.1 **Term**. The term of this Agreement shall commence on the closing date of the Contribution Transaction and shall continue until terminated as provided in Section 2.2 (the "**Term**").

Section 2.2 **Termination**.

(a) **Termination by PHC LLC**. Any particular Service or all Services provided by PHCC hereunder may be terminated by PHC LLC upon prior written notice to PHCC (and once all Services are terminated, this Agreement shall terminate). If PHC LLC terminates a particular Service or group of Services only, this Agreement shall remain in full force and effect with respect to the other Services that have not been terminated.

(b) **Termination by PHCC**. PHCC may terminate this Agreement (i) upon not less than [90] days' prior written notice to PHC LLC, given at any time after December 31, 2024 or (ii) if PHC LLC breaches the payment obligations of this Agreement and fails to remedy such breach within 30 days written notice from PHCC.

Section 2.3 **Effect of Termination**.

(a) PHC LLC specifically agrees and acknowledges that all obligations of PHCC to provide each Service for which PHCC is responsible hereunder shall immediately cease upon the termination of this Agreement. Upon the cessation of PHCC's obligation to provide any Services, PHC LLC shall retain a non-exclusive license to continue to use any and all software of PHCC or third-party software provided through PHCC, telecommunications services or equipment, or computer systems or equipment) for a period of time reasonably requested by PHC LLC that will be necessary to allow PHC LLC to effect an orderly transition.

(b) Upon termination of a Service with respect to which PHCC holds books, records or files, including current or archived copies of computer files, owned by PHC LLC and used by PHCC in connection with the provision of a Service to PHC LLC, PHCC will return all of such books, records or files as soon as reasonably practicable as well as comply with any reasonable request for cooperation made by PHC LLC for PHCC to assist it or a new contractor in accessing, understanding and utilizing such books, records or files; **provided**, **however**, **that** PHCC may make a copy, at its expense, of such books, records or files for archival purposes only.

(c) Without prejudice to the survival of the other agreements of the parties, all payment obligations herein shall survive the happening of any event causing termination of this Agreement until all amounts due hereunder have been paid.

## ARTICLE III

## CHARGES FOR SERVICES

Section 3.1 **Reimbursement of Expenses**. In consideration for providing the Services, PHC LLC agrees to reimburse PHCC and its subsidiaries an amount equal to (i) all out-of-pocket expenses incurred by PHCC and its subsidiaries in connection with the provision of the Services, plus (ii) a reasonable allocation of other costs, including a portion of the costs of employing each individual performing the Services, based on, (A) the percentage of working hours that each such employee has dedicated to performing the Services, or (B) another methodology agreed by the Parties. For purposes of the prior sentence, the parties agree that the "costs of employing each individual performing the Services" shall be 125% of the base salary of each such employee.

Section 3.2 **Invoicing and Payment**. PHCC shall invoice PHC LLC for the Services on a monthly basis, such invoices to be delivered within 15 days after the end of each calendar month. PHC LLC will promptly pay PHCC (or such subsidiary as PHCC may designate) upon receipt of such invoices, subject to receiving, if requested, appropriate supporting documentation for such invoices.

Section 3.3 **Sales Taxes**. In addition to any payments for the Services required hereunder, PHC LLC shall pay all applicable sales, use or other similar taxes chargeable in respect of the Services. PHC LLC shall pay to PHCC (or such subsidiary as PHCC may designate) an amount equal to such taxes within 15 days of receipt of an invoice with respect thereto. If PHC LLC is exempt from any such taxes, PHC LLC shall furnish PHCC (or such subsidiary as PHCC may designate) with a valid and properly completed exemption certificate as required under applicable law.



## ARTICLE IV

## MISCELLANEOUS

Section 4.1 Indemnification.

(a) **Indemnification by PHCC**. PHCC shall indemnify and hold PHC LLC, its officers, members, managers, and employees harmless for and from any and all expenses or losses in respect of or arising out of PHCC's or any of its directors', officers', employees', subcontractors' or other third party's bad faith, willful misconduct or gross negligence resulting in a material act, omission or other breach (beyond any applicable cure period) of PHCC's obligations under this Agreement

(b) **Indemnification by PHC LLC**. PHC LLC shall indemnify and hold each of PHCC, its directors, officers and employees and each other person, if any, controlling PHCC harmless for and from any and all expenses or losses in respect of or arising out of PHCC's performance of the Services for PHC LLC provided hereunder

Section 4.2 **Notices**.

All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or email transmission) and shall be given (i) by personal delivery to the appropriate address as set forth below (or at such other address for the party as shall have been previously specified in writing to the other party), (ii) by reliable overnight courier service (with confirmation) to the appropriate address as set forth below (or at such other address for the party as shall have been previously specified in writing to the other party), or (iii) by facsimile transmission (with confirmation) to the appropriate facsimile number set forth below (or at such

other facsimile number for the party as shall have been previously specified in writing to the other party) with follow-up copy by reliable overnight courier service the next business day:

If to PHCC, to:

Preston Hollow Community Capital, Inc.
1717 Main Street, Suite 3900
Dallas, Texas 75201
Telephone: (214) 389-0800
Facsimile: [ ]
Email: [ ]

If to PHC LLC, to:

Preston Hollow Capital, LLC
117 Main Street, Suite 3900
Dallas, Texas 75201
Telephone: (214) 389-0800
Facsimile: [ ]
Email: [ ]

All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5 p.m. (Dallas time) and such day is a business day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding business day in the place of receipt.



Section 4.3 **Amendments and Waivers**. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by an authorized officer of each party. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by an authorized officer of the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 4.4 **Headings**. The table of contents and the article, section, paragraph and other headings contained in this Agreement are inserted for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 4.5 **Counterparts**. This Agreement may be executed in multiple counterparts. If so executed, all of such counterparts shall constitute but one agreement, and, in proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or electronic mail PDF copies of counterparts of the signature pages.

Section 4.6 **Entire Agreement**. This Agreement and the Schedules hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and supersede and cancel all prior agreements, negotiations, correspondence, undertakings, understandings and communications of the parties, oral and written, with respect to the subject matter hereof.

Section 4.7 **Governing Law**. THIS AGREEMENT, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OFTEXAS, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS.

Section 4.8 **Waiver of Jury Trial**. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 4.9 **Assignment**. This Agreement may not be assigned by either party without the written consent of the other party. No such assignment shall relieve either party of any of its rights and obligations hereunder.

Section 4.10 **Binding Nature; Third-Party Beneficiaries**. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person or Persons any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement (it being understood, for avoidance of doubt, that PHCC shall be entitled to submit and receive payment of invoices under this Agreement for the benefit of any of its subsidiaries that perform (or cause to be performed) Services for PHC LLC).



Section 4.11 **Severability**. This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of this Agreement or of any other term hereof, which shall remain in full force and effect, for so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. If it is ever held that any restriction hereunder is too broad to permit enforcement of such restriction to its fullest extent, each party agrees that such restriction may be enforced to the maximum extent permitted by law, and each party hereby consents and agrees that such scope may be judicially modified accordingly in any proceeding brought to enforce such restriction.

Section 4.12 **No Right of Setoff**. Neither party hereto nor any affiliate thereof may deduct from, set off, holdback or otherwise reduce in any manner whatsoever against any amounts such Persons may owe to the other party hereto or any of its affiliates any amounts owed by such other party or its affiliates to the first party or its affiliates.

Section 4.13 **Specific Performance**. The parties hereto agree that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

Section 4.14 **Construction**. (a) For the purposes hereof, (i) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires, (ii) the words "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Schedules hereto and the Exhibits hereto) and not to any particular provision of this Agreement, and article, section, paragraph, exhibit and schedule references are to the articles, sections, paragraphs, and exhibits and schedules of this Agreement unless otherwise specified, (iii) the words "including" and words of similar import when used in this Agreement shall mean "including, without limitation," unless otherwise specified, (iv) the word "or" shall not be exclusive and (v) PHCC and PHC LLC will be referred to herein individually as a "party" and collectively as "parties" (except where the context otherwise requires).

(b) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(c) Any reference to any federal, state, local or non-U.S. statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context otherwise requires.



IN WITNESS WHEREOF, the parties have caused this Shared Resources and Cooperation Agreement to be duly executed as of the day and year first above written.

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

By: _____

Name:
Title:

PRESTON HOLLOW CAPITAL, LLC

By: _____
Name:
Title:

**SCHEDULE A**

**THE SERVICES**

**[Omitted]**

**Exhibit 10.2**

# FORM OF REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT is entered into as of [—], 2021 by and among Preston Hollow Community Capital, Inc., a Maryland corporation (together with any successor entity thereto, the "**Company**"), and Preston Hollow Capital, LLC (the "**Initial Holder**"). Each capitalized term used, but not defined, in this Agreement shall have the meaning ascribed to such term in Article I except as otherwise expressly set forth herein.

## RECITALS

**WHEREAS**, the Company has engaged in certain formation transactions (the "**Formation Transactions**"), pursuant to which it has (i) caused PHCC OP, LP, a Delaware limited partnership (the "**Operating Partnership**") to issue Class A units of limited partnership interest in the Operating Partnership (the "**Class A OP Units**") to the Initial Holder and (ii) issued shares of its Class B common stock, par value $0.01 of the Company ("**Class B Common Stock**") to the Initial Holder, each in private placement transactions.

**WHEREAS**, in connection therewith, the Company is closing its IPO of shares of Class A common stock, par value $0.01 of the Company ("**Class A Common Stock**").

**WHEREAS**, in order to induce the Initial Holder to purchase the Class A OP Units from the Operating Partnership and shares of Class B Common Stock from the Company, the Company has agreed to grant the Holders (as defined herein) the registration rights set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

## DEFINITIONS

Section 1.1. **Definitions**. In addition to the definitions set forth above, the following terms, as used herein, have the following meanings:

"**Affiliate**" means with, respect to a specified Person, any Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, the specified Person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract, as trustee or executor or otherwise.

"**Affiliated Investor"** means, with respect to any Holder, (a) any investment fund or holding company that is directly or indirectly managed or advised by a manager or advisor of such Holder or any of its Affiliates and (b) any of its Affiliates or any other Person who or which is otherwise an Affiliate of any such Holder (other than the Company and its Subsidiaries).

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"**Agreement**" means this Registration Rights Agreement, as it may be amended, supplemented or restated from time to time.

"**Automatic Shelf Registration Statement**" has the meaning set forth in Section 2.2(a).

"**Board**" means the board of directors of the Company.

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to be closed.

"**Class A Common Stock**" has the meaning set forth in the recitals hereto.

"**Class A OP Units**" has the meaning set forth in the recitals hereto.

"**Class B Common Stock**" has the meaning set forth in the recitals hereto.

"**Commission**" means the Securities and Exchange Commission.

"**Demand Notice**" has the meaning set forth in Section 2.1(a).

"**Demand Offering**" means an underwritten offering of Class A Common Stock pursuant to a Demand Registration, Block Trade Demand or Underwritten Offering Demand.

"**Demand Registration**" has the meaning set forth in Section 2.1(a).

"**Demand Registration Statement**" has the meaning set forth in Section 2.1(a).

"**Eligible Assignee**" has the meaning set forth in Section 3.4.

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

"**FINRA**" means the Financial Industry Regulatory Authority or other successor organization.

"**Formation Transactions**" has the meaning set forth in the recitals hereto.

"**Holder**" means (i) the Initial Holder for so long as it holds Registrable Securities directly, (ii) any direct or indirect member of Initial Holder and/or its Blockers (as defined in the PHC LLCA) that becomes the direct holder of Registrable Securities through distributions made by Initial Holder or through the exercise of withdrawal or redemption rights by such member, or (iii) any Eligible Assignee of Registrable Securities who becomes a party to this Agreement pursuant to Section 3.4 of this Agreement; ***provided, that*** the term "Holder" shall not include the Company.

"**Indemnified Party**" has the meaning set forth in Section 2.8.

"**Indemnifying Party**" has the meaning set forth in Section 2.8.



"**Initial Holder**" has the meaning set forth in the preamble.

"**IPO**" means (i) an initial public offering or (ii) a transaction or related series of transactions other than an initial public offering, which results in the Class A Common Stock of the Company being listed or admitted to trading on the New York Stock Exchange or another national securities exchange.

"**Liabilities**" has the meaning set forth in Section 2.6.

"**Market Value**" means, with respect to the Class A Common Stock, the average of the daily market price for the ten consecutive trading days immediately preceding the determination date. The market price of the Class A Common Stock for each such trading day shall be: (i) if the Class A Common Stock is listed or admitted to trading on any securities exchange or the over-the-counter market, the closing price, regular way settlement, on such day, or if no such sale takes place on such day, the average of the closing bid and asked prices on such day, in either case as reported in the principal consolidated transaction reporting system, (ii) if the Class A Common Stock is not listed or admitted to trading on any securities exchange or the over-the-counter market, the last reported sale price on such day or, if no sale takes place on such day, the average of the closing bid and asked prices on such day, as reported by a reliable quotation source designated by the Company, or (iii) if the Class A Common Stock is not listed or admitted to trading on any securities exchange or the over-the-counter market and no such last reported sale price or closing bid and asked prices are available, the average of the reported high bid and low asked prices on such day, as reported by a reliable national quotation source designated by the Company, or if there shall be no bid and asked prices on such day, the average of the high bid and low asked prices, as so reported, on the most recent day

(not more than ten days prior to the date in question) for which prices have been so reported; **provided that** if there are no bid and asked prices reported during the ten days prior to the date in question, the Market Value of the Class A Common Stock, shall be determined by the Board of the Company acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"**Notice and Questionnaire**" has the meaning set forth in Section 2.1(b).

"**Notice and Questionnaire Response Period**" has the meaning set forth in Section 2.1(b).

"**Offering Launch Date**" for a Demand Offering means the earliest of (i) the date of the filing a preliminary prospectus (or prospectus supplement) that is intended to be distributed to potential investors in the Demand Offering, (ii) the public announcement of the commencement of the Demand Offering or (iii) if applicable, the entrance into a binding agreement to sell securities being sold in the Demand Offering to the underwriters for the Demand Offering.

"**Opt-Out Request**" has the meaning set forth in Section 3.14.

"**Ordinary Common Units**" has the meaning set forth in the PHC LLCA.



"**Person**" means an individual or a corporation, partnership, limited liability company, association, trust, or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**PHC LLCA**" means the Third Amended and Restated Limited Liability Company Agreement of the Initial Holder, dated as of September 1, 2018, as amended, modified, supplemented or amended and restated from time to time.

"**Private Equity Investors**" means the Trident Members, the HarbourVest Members, the ICONIQ Members, the Pathway Members and WMC Members (each as defined in the PHC LLCA).

"**Registrable Securities**" means Class A Common Stock (i) issued by the Company in the Formation Transactions or upon the exchange or conversion of Class A OP Units or Class B common stock issued in the Formation Transactions or in an "Alternative Exchange Transaction" as defined in the Operating Partnership's First Amended and Restated Agreement of Limited Partnership, and (ii) any additional Class A Common Stock issued as a dividend or distribution on, in exchange for, or otherwise in respect of, Registrable Securities (including as a result of combinations, recapitalizations, mergers, consolidations, reorganizations or otherwise), in each case upon original issuance thereof and at all times subsequent thereto, including upon the transfer thereof by the Initial Holder or any subsequent Holder to an Eligible Assignee; **provided that** shares of Class A Common Stock shall cease to be Registrable Securities with respect to any Holder (x) at the time such Registrable Securities have been disposed of pursuant to a Registration Statement, or (y) at the time such Registrable Securities may be sold by a Holder or have been sold by a Holder in a single transaction without registration under the Securities Act pursuant to Rule 144.

"**Registration Statement**" means a Demand Registration Statement or Resale Shelf Registration Statement.

"**Resale Shelf Registration Statement**" shall have the meaning set forth in Section 2.2(a).

"**Rule 144**" means Rule 144 promulgated under the Securities Act, as amended from time to time, or any similar successor rule thereto that may be promulgated by the Commission.

"**Rule 415**" means Rule 415 promulgated under the Securities Act, as amended from time to time, or any similar successor rule thereto that may be promulgated by the Commission.

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Significant Holder**" means the Trident Members, the HarbourVest Members and any other member in the Initial Holder who together with such member's Affiliates and commonly managed funds and related persons holds at least 10% of the Ordinary Common Units in the Initial Holder.

"**Subsidiary**" or "**Subsidiaries**" means with respect to any Person, any other Person (which is not an individual) of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person.

"**Suspension Notice**" has the meaning set forth in Section 2.11.

"**Suspension Period**" has the meaning set forth in Section 2.11.

"**Trident Members**" means any Trident Member (as defined in the PHC LLCA) and any fund managed by Stone Point Capital LLC and their Affiliates and Eligible Assignees who hold Registrable Securities.

"**Underwritten Block Trade**" has the meaning set forth in Section 2.2(e).

"**Underwritten Offering Demand**" has the meaning set forth in Section 2.2(f).

"**Underwritten Offering Demand Notice**" has the meaning set forth in Section 2.2(f).

"**WKSI**" means a "well-known seasoned issuer" as defined under Rule 405.

## ARTICLE II

## REGISTRATION AND OFFERING RIGHTS

Section 2.1. **Demand and Piggyback Registration Rights**. (a) No earlier than 180 days following the date of the final prospectus in the Company's IPO and at any time prior to the date on which the Company files a Resale Shelf Registration Statement pursuant to Section 2.2, subject to Section 3.10, any Significant Holder may make a written request to the Company (a "**Demand Notice**") to require the Company to use all commercially reasonable efforts to prepare and file a registration statement on Form S-1 or such other form under the Securities Act then available to the Company (a "**Demand Registration Statement**") registering the offering and resale of Registrable Securities by such Significant Holder (as further provided in Section 2.1(c)), which Demand Registration Statement shall include all Registrable Securities of Holders who request such inclusion pursuant to Section 2.1(b) (a "**Demand Registration**").

(b) Within five Business Days following receipt by the Company of a Demand Notice and subject to Section 3.10, the Company shall provide all Holders with a form of Notice and Questionnaire (the "**Notice and Questionnaire**") to be completed by each Holder desiring to have any of such Holder's Registrable Securities included in the Demand Registration Statement; provided that, Holders that are "Employee Members" as defined in the PHC LLCA shall not be entitled to participate in the first Demand Registration Statement. Prior to receiving a Demand Notice, the Company will also provide its then current form of Notice and Questionnaire to any Holder upon request. The Notice and Questionnaire shall solicit information from each Holder regarding the number of Registrable Securities such Holder desires to include in the Demand Registration Statement and such other information relating to such Holder as the Company determines is reasonably required in connection with the Demand Registration Statement, including, without limitation, all information relating to such Holder required to be included in the Demand Registration Statement, or that may be required in connection with applicable FINRA filings to be made in connection with the Demand Registration Statement. Subject to Section 3.10, the Company will include in the Demand Registration Statement any Registrable Securities requested to be included by any Holder who has delivered a duly completed and executed Notice and Questionnaire within 5 Business Days of the date on which the Company's notice to such Holder was provided (the "**Notice and Questionnaire Response Period**"); **provided that** the Company will use all commercially reasonable efforts to include the Registrable Securities requested to be included by any Holder that delivers a duly completed and executed Notice and Questionnaire at least 5 Business Days prior to the anticipated effectiveness of the Demand Registration Statement.

(c) Subject to Sections 2.12 and 3.10, the Company shall use all commercially reasonable efforts to file the Demand Registration Statement on or before the date that is the latest of (i) if the filing of the Demand Registration Statement is prohibited by one or more lock-up agreements as set forth in Section 2.1(d), five Business Days following the expiration of the relevant lock-up agreements or the date that consent to file the Demand Registration Statement has been granted by the counterparties pursuant to such lock-up agreements; and (ii) 60 calendar days in the case of a registration statement on Form S-1 or Form S-3 following the Company's receipt of the Demand Notice; **provided, however, that** if the date on which the Demand Registration Statement must be filed in accordance with the foregoing provision occurs within the ten Business Day period prior to the date on which the Company is required to file a Quarterly Report on Form 10-Q or an Annual Report on Form 10-K with the Commission, the Company shall use all commercially reasonable efforts to file the Demand Registration Statement within five Business Days following the date on which it files such Quarterly Report on Form 10-Q or Annual Report on Form 10-K with the Commission, which, in each case shall not count as one of the Company's permitted suspensions for purposes of Section 2.11. Subject to Sections 2.11 and 3.10, the Company shall use all commercially reasonable efforts to cause the Demand Registration Statement to become effective as promptly as reasonably practicable after the filing thereof. The Company shall be required to maintain the effectiveness of the Demand Registration Statement and, subject to Sections 2.11 and 3.10, keep such Demand Registration Statement continuously effective until either (i) a Resale Shelf Registration Statement including all Registrable Securities covered by such Demand Registration Statement has been declared effective by the Commission, in accordance with Section 2.2, or (ii) none of the securities covered by the Demand Registration Statement are Registrable Securities. In the event that the Company does not maintain the effectiveness of the Demand Registration Statement pursuant to the terms of the prior sentence, such action shall not count as one of the Company's permitted suspensions for purposes of Section 2.11.

(d) In addition to the provisions set forth in Section 2.11, the Company shall not be obligated to file a Registration Statement during a period when Holders are prohibited from selling their Registrable Securities or the Company is prohibited from filing a registration statement with respect thereto pursuant to a lock-up agreement (including lock-up agreements entered into by Holders or the Company in relation to the Company's IPO) entered into (or that were required to be entered into) in connection with any underwritten offering conducted by the Company on its own behalf or on behalf of selling securityholders, unless the Holders and/or the Company have obtained the applicable consent of the counterparties to such lock-up agreements.



(e) Any Demand Notice must specify (A) the Registrable Securities proposed to be registered and (B) the proposed method of distribution of such Registrable Securities, which may be by means of an underwritten offering, to the extent then known. Subject to Section 2.3, the Company will have the right to include in any Demand Registration Statement Class A Common Stock to be sold for its own account or Class A Common Stock owned by other Significant Holders, and may, with the prior written consent of the Significant Holder who delivered the Demand Notice, include Class A Common Stock owned by other holders of Class A Common Stock (including Class A Common Stock issuable upon the prior (i) exchange of Class A OP Units (including Class A OP Units issuable upon the prior conversion of LTIP Units or other partnership units) or (ii) conversion of shares of Class B Common Stock).

(f) At any time following the one-year anniversary of the closing of the Company's IPO and at a time when a Demand Registration Statement, a Resale Shelf Registration Statement (as defined herein) or other registration statement registering the resale of all of a Holder's Registrable Securities is not effective, subject to Section 3.10, any one or more Significant Holder(s) may give a Demand Notice to the Company to require the Company to effect a Demand Registration pursuant to the terms of this Section 2.1.

Section 2.2. **Shelf Registration Rights**. (a) As soon as practicable after the date on which the Company first becomes eligible to register the resale of securities of the Company pursuant to Form S-3 under the Securities Act (or a similar or successor form established by the Commission), but in no event later than 60 days thereafter, subject to Section 3.10, the Company shall prepare and file a registration statement registering the offer and resale of the Registrable Securities by all Holders on a delayed or continuous basis pursuant to Rule 415 (the "**Resale Shelf Registration Statement**"). As soon as practicable after the date on which the Company first becomes a WKSI, subject to Section 3.10, the Company shall prepare and file an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) (an "**Automatic Shelf Registration Statement**") to replace any prior Resale Shelf Registration Statement that is not an Automatic Shelf Registration Statement. Subject to Sections 2.12 and 3.10, the Company shall use all commercially reasonable efforts to cause the Resale Shelf Registration Statement to be declared (or in the case of an Automatic Shelf Registration Statement, upon filing to become) effective by the Commission as promptly as reasonably practicable after the filing thereof, and, subject to Section 2.11, to keep such Resale Shelf Registration Statement (or a successor registration statement filed with respect to the Registrable Securities, which shall be deemed to be included within the definition of Resale Shelf Registration Statement for purposes of this Agreement) continuously effective for a period ending when all Class A Common Stock covered by the Resale Shelf Registration Statement are no longer Registrable Securities. Subject to Section 2.3, the Company will have the right to include in any Resale Shelf Registration

Statement Class A Common Stock to be sold for its own account or Class A Common Stock owned by other holders of Class A Common Stock (including Class A Common Stock issuable upon the prior (i) exchange of Class A OP Units (including Class A OP Units issuable upon the prior conversion of LTIP Units or other partnership units) or (ii) conversion of shares of Class B Common Stock).



(b) At least 10 Business Days prior to the Company's anticipated filing of the Resale Shelf Registration Statement, the Company shall provide notice to all Holders of such anticipated filing together with a form of the Notice and Questionnaire to be completed by each Holder desiring to have any of such Holder's Registrable Securities included in the Resale Shelf Registration Statement. The Notice and Questionnaire provided shall solicit information from each Holder regarding the number of Registrable Securities such Holder desires to include in the Resale Shelf Registration Statement and such other information relating to such Holder as the Company determines is reasonably required in connection with the Resale Shelf Registration Statement, including, without limitation, all information relating to such Holder required to be included in the Resale Shelf Registration Statement or that may be required in connection with applicable FINRA filings to be made in connection with the Resale Shelf Registration Statement. Any Holder that has not delivered a duly completed and executed Notice and Questionnaire within 5 Business Days after the Company provides the notice referred to above will not be entitled to have such Holder's Registrable Securities included in the Resale Shelf Registration Statement; **provided that**, the Company will use all commercially reasonable efforts to include the Registrable Securities requested to be included by any Holder that delivers a duly completed and executed Notice and Questionnaire at least 5 Business Days prior to the anticipated effectiveness of the Resale Shelf Registration Statement. While any Automatic Shelf Registration Statement is effective, within 90 days following the written request (accompanied by a duly completed and executed Notice and Questionnaire) of a Holder holding Registrable Securities that were not included in the Automatic Shelf Registration Statement, the Company will file (and use all commercially reasonable efforts to have become effective promptly thereafter, to the extent applicable) a post-effective amendment, prospectus supplement or additional registration statement registering the offering and sale of such Holder's Registrable Securities on a delayed or continuous basis pursuant to Rule 415 (which, following its effectiveness, shall be deemed to be included within the Automatic Shelf Registration Statement for purposes of this Agreement). Notwithstanding anything to the contrary in this Section 2.2(b), the Company shall only have an obligation to include the Registrable Securities requested by a Holder that is not a Significant Holder in a Resale Shelf Registration Statement in the event at least one Significant Holder delivers a duly completed and executed Notice and Questionnaire to the Company pursuant to the provisions of this Section.

(c) After effectiveness of any Automatic Shelf Registration Statement, upon the written request of any Holder (accompanied by a duly completed and executed Notice and Questionnaire), the Company will, within 120 days thereof, either (i) update the applicable information in the existing Resale Shelf Registration Statement by post-effective amendment or prospectus supplement thereto in order to permit such Holder to sell such Holder's Registrable Securities thereunder or (ii) file (and use all commercially reasonable efforts to have become effective promptly thereafter, to the extent applicable) a prospectus supplement or additional registration statement registering the offering and sale of such Holder's Registrable Securities on a delayed or continuous basis pursuant to Rule 415 (which, following its effectiveness, shall be deemed to be included within the definition of Resale Shelf Registration Statement for purposes of this Agreement).

(d) Until such time as the Company is no longer required to keep the Resale Shelf Registration Statement effective pursuant to Section 2.2(a) hereof, the Company shall not amend or supplement the Resale Shelf Registration Statement to remove any Class A Common Stock previously included therein pursuant to Section 2.2 solely because such shares of Class A Common Stock cease to be Registrable Securities as a result of becoming eligible to be sold by the applicable Holder thereof pursuant to Rule 144 without regard to the volume limitations thereof.



(e) At any time while the Resale Shelf Registration Statement or Demand Registration Statement is effective, if a Significant Holder wishes to engage in an underwritten block trade or bought deal or overnight deal through a takedown from an effective Registration Statement (including an Automatic Shelf Registration Statement) (an "**Underwritten Block Trade**"), then notwithstanding the time periods set forth in Section 2.2(b), such Significant Holder will notify the Company in writing of such Underwritten Block Trade (a "**Block Trade Demand**") **provided, however, that** a Block Trade Demand may only be made if it relates to Registrable Securities having a Market Value of at least $25 million on the trading day immediately preceding the date that the notice is sent to the Company.

The notification will specify (i) the Registrable Securities proposed to be sold by the Significant Holder, and (ii) the desired Offering Launch Date for the Underwritten Block Trade (subject to section 2.1(f) herein), which shall not be less than two Business Days following the date on which the Block Trade Demand is provided to the Company. The Company will also notify the other Significant Holders of Registrable Securities, as applicable, of such Underwritten Block Trade (each such Significant Holder, a "**Potential Block Participant**") and the Potential Block Participants may elect whether or not to participate no later than the next Business Day after receipt of such notice from the Company (unless a longer period is agreed to), and the Company will as expeditiously as possible use its best efforts to facilitate such Underwritten Block Trade on the requested Offering Launch Date (which may close as early as two Business Days after the date it commences). Except for the Private Equity Investors, no other Holder shall have any right to participate in an Underwritten Block Trade without the prior written consent of the initiating Significant Holder. Any Potential Block Participant's request to participate in an Underwritten Block Trade shall be binding on the Potential Block Participant; **provided, further**, that each such Potential Block Participant that elects to participate may condition its participation on the Underwritten Block Trade being completed within ten Business Days of its acceptance of a price per share (after giving effect to any underwriters' discounts or commissions) to such Potential Block Participant equal to the price per share to be paid to such initiating Significant Holder.

(f) **Underwritten Offering Rights**. At any time while the Resale Shelf Registration Statement or Demand Registration Statement is effective, any Significant Holder may make written requests for underwritten offerings other than an Underwritten Block Trade (an "**Underwritten Offering Demand Notice**") of Registrable Securities included in the Resale Shelf Registration Statement or Demand Registration Statement (each, an "**Underwritten Offering Demand**"); **provided**, **however**, **that** an Underwritten Offering Demand may only be made if it relates to Registrable Securities having a Market Value of at least $25 million on the trading day immediately preceding the date that the Underwritten Offering Demand Notice is sent to the Company. The Company shall not be obligated to effect more than one Underwritten Offering Demand or Block Trade Demand in any consecutive 120-day period, more than two Underwritten Offering Demands in any consecutive 12-month period and more than six Underwritten Offering Demands and Block Trade Demands in total pursuant to a Demand Registration Statement or Resale Shelf Registration Statement; **provided**, **that** any Holder listed in a Resale Registration Statement may conduct an unlimited number of block trades that are not underwritten without notice to other Holders. After an Underwritten Offering Demand Notice is received by the Company, the Company shall promptly provide such Underwritten Offering Demand Notice to all other Holders, and the Company will use all commercially reasonable efforts to include in such underwritten offering any Registrable Securities requested to be included by such other Holders by notice to the Company provided within five Business Days of the date on which such notice was provided to such other Holders. Any Underwritten Offering Demand Notice will specify (i) the Registrable Securities proposed to be sold by the Significant Holder, and (ii) the desired Offering Launch Date for the underwritten offering, which shall not be less than seven Business Days following the date on which the Underwritten Offering Demand Notice is provided to the Company. Upon receiving an Underwritten Offering Demand Notice or Block Trade Demand, the Company shall use all commercially reasonable efforts to prepare the applicable offering documents and take such other actions as are set forth in Section 2.4 relating to such offering in order to permit the Offering Launch Date for such underwritten offering to occur on the date set forth in the Underwritten Offering Demand Notice or Block Trade Demand, as applicable. The initiating Significant Holder shall have the right to determine the actual Offering Launch Date; **provided that**, without the Company's consent (not to be unreasonably withheld, delayed or conditioned), the Offering Launch Date may not be less than three Business Days for a Block Trade Demand or less than seven Business Days for an Underwritten Offering Demand or more than ten Business Days following the date on which the Block Trade Demand is provided to the Company. The Company and the Initiating Significant Holders will have the right to jointly select the underwriters and their roles in the resale offering and determine the structure and terms of such offering, including the number of shares to be sold, the offering price, the underwriting discount and commission and the plan of distribution. The Company will coordinate with the initiating Significant Holder in connection with the fulfillment of its responsibilities pursuant to Section 2.4. Subject to Section 2.3, the Company will have the right to include in any Underwritten Offering Demand (but not any Block Trade Demand) Class A Common Stock to be sold for its own account.



(g) In addition to the provisions set forth in Section 2.11, the Company shall not be obligated to effect, or take any action to effect, an underwritten offering for which the proposed Offering Launch Date is scheduled to occur during a period when the Holders are prohibited from selling their Registrable Securities or the Company is prohibited from filing a registration statement with respect to a lock-up agreement as described in Section 2.1(d), unless the Holders and/or the Company have obtained the consent of the counterparties to such lock-up agreements. The initiating Significant Holder may revoke an Underwritten Offering Demand Notice at any time by providing written notice of such revocation to the Company and, for purposes of determining the number of Underwritten Offering Demands to which the Holders are entitled, an Underwritten Offering Demand Notice that was revoked will not count as an Underwritten Offering Demand unless (i) such revocation occurs after the Offering Launch Date, (ii) the Company does not sell any

shares of Class A Common Stock for its own account pursuant to such offering and (iii) the Company has incurred expenses in connection with such underwritten offering for which it has not been reimbursed by the Holders.

Section 2.3. **Reduction of Offering and Piggyback Offerings**. Notwithstanding anything contained herein, if the managing underwriter(s) of a Demand Offering advise(s) the Company and the Holder(s) of the Registrable Securities included in such Demand Offering, in writing, that the aggregate number of Class A Common Stock to be sold by the Company or any other securityholder (other than a Holder), if any, and Registrable Securities requested to be included in the Demand Offering exceeds the amount that they believe could be sold without adversely affecting the Demand Offering, then the aggregate number of Class A Common Stock to be sold by the Company or any other securityholder (other than a Holder), if any, and Registrable Securities will be reduced to the amount recommended by such managing underwriter(s). With respect to an underwritten offering of Class A Common Stock pursuant to an Underwritten Offering Demand, such reduction will be achieved by, first, reducing, or eliminating if necessary, all Class A Common Stock requested or desired to be included in such Demand Offering by the Company for its own account and any other securityholders (other than Holders) seeking to participate in such Demand Offering in the manner agreed to by the Company and such securityholders or, if no agreement exists, *pro rata* based on the number of securities requested or desired to be included by the Company and each such other securityholder and, then, if necessary, reducing the Registrable Securities requested to be included by the Holders in the manner agreed to by the Holders, or, if no agreement exists, by reducing the Holders *pro rata* based on the number of Registrable Securities requested to be included in such Demand Offering or in such other manner as is agreed to by the Holders. Notwithstanding the foregoing, if 20% or more of the Registrable Securities included in a Demand Notice are excluded from the Demand Offering pursuant to this Section 2.3 or otherwise, then the Significant Holders shall have the right, with respect to such exclusion, to request one additional Demand Offering during the relevant 12-month period.



Section 2.4. **Registration Procedures; Filings; Information**. In connection with a Registration Statement or Demand Offering in which one or more Holders are participating:

(a) In the case of a Demand Offering, the Company shall prepare and file with the Commission a Registration Statement on any appropriate form under the Securities Act with respect to such Registrable Securities and use its reasonable best efforts to cause such Registration Statement to become effective by the Commission as promptly as reasonably practicable; and to remain continuously effective; **provided, however**, that prior to filing a Registration Statement or prospectus or any amendment or supplement thereto which relates to Registrable Securities, the Company will furnish to the managing underwriter(s) for such offering and its counsel a copy of such Registration Statement, prospectus, preliminary prospectus or any amendment or supplement thereto as proposed to be filed, and thereafter furnish to each Significant Holder of such Registrable Securities and their counsel such Registration Statement, prospectus or amendment or supplement thereto (in each case including all exhibits thereto and documents incorporated by reference therein), and, if requested by such counsel, provide such counsel reasonable opportunity to participate in the preparation of such Registration Statement and each prospectus included therein. The Company shall not file any such Registration Statement, prospectus or preliminary prospectus or any amendment thereof or supplement thereto (including any document that, upon filing, would be incorporated or deemed to be incorporated by reference therein) in which a Significant Holder there is named if such Significant Holder or its counsel shall reasonably object, in writing, on a timely basis, unless, in the opinion of the Company, such filing is necessary to comply with applicable law. Notwithstanding the foregoing, this Section 2.4(a) shall not apply to (i) an amendment or supplement relating solely to securities other than such Holder's Registrable Securities, and (ii) an amendment or supplement by means of an Annual Report on Form 10-K, a Quarterly Report on Form 10-Q, a Proxy Statement on Schedule 14A, a Current Report on Form 8-K or a Registration Statement on Form 8-A or any amendments thereto filed with the Commission under the Exchange Act and incorporated or deemed to be incorporated by reference into a Registration Statement or prospectus.



(b) The Company shall prepare and file with the Commission such pre- and post-effective amendments to such Registration Statement and supplements to such Registration Statement and the prospectus and such amendments or supplements to any issuer free writing prospectus as may be necessary to comply with the Securities Act or as necessary to keep such Registration Statement effective for the period of time required by this Agreement, and comply with provisions of the Securities Act with respect to

the disposition of all Registrable Securities covered by such Registration Statement during such period in accordance with the intended method or methods of disposition by the Holders thereof set forth in such Registration Statement.

(c) After the filing of a Registration Statement, the Company will immediately notify each Holder holding Registrable Securities covered by such Registration Statement of any stop order issued or threatened by the Commission and use all commercially reasonable efforts to prevent the entry of such stop order or to remove it if entered. If a stop order previously in effect with respect to a Registration Statement is removed, the Company will promptly notify each Holder holding Registrable Securities covered by such Registration Statement. Each Holder agrees that it will not dispose of any Registrable Securities pursuant to a Registration Statement while it has actual notice that any stop order is in effect with respect to such Registration Statement.

(d) In connection with the filing of a Registration Statement including Registrable Securities or a Demand Offering in which one or more Holders are participating the Company will use all commercially reasonable efforts to (i) register or qualify the Registrable Securities under such other securities or "blue sky" laws of such jurisdictions in the United States (where an exemption does not apply) as any Holder or managing underwriter(s), if any, reasonably (in light of such Holder's intended plan of distribution) requests and (ii) cause such Registrable Securities and the offering thereof to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company, including but not limited to FINRA; **provided that** the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this paragraph (c), (B) subject itself to general taxation in any jurisdiction to which it would not otherwise be subject or (C) consent to general service of process in any jurisdiction in which it would not otherwise be required to do so.

(e) The Company will promptly notify each Holder (i) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities held by such Holder for sale under the securities or "blue sky" laws of any jurisdiction or the initiation of any proceeding for such purpose or the lifting of a suspension that was previously in effect and (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to the Registration Statement or related prospectus or for additional information. Each Holder agrees that it will not dispose of any Registrable Securities pursuant to a Registration Statement or a Demand Offering in a manner requiring qualification under the securities or "blue sky" laws of any jurisdiction during any period while such qualification has been suspended.



(f) The Company will immediately notify each Holder at any time when a prospectus relating to such Holder's Registrable Securities is required to be delivered under the Securities Act of the occurrence of an event a result of which the Company reasonably concludes a supplement or amendment to such prospectus should be prepared in order to ensure that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Upon the occurrence of such event, the Company will promptly prepare, file and, if applicable, make available to each Holder any such supplement or amendment; **provided that** any supplement or amendment relating to the historical financial results of the Company need not be prepared, filed or made available prior to the Company's regularly scheduled date for the filing of such results unless a Demand Registration or Underwritten Offering Demand has been made. The Company will promptly notify each Holder when such supplement or amendment has been filed. Each Holder agrees that, upon receipt of any notice from the Company of the occurrence of an event as set forth above, such Holder will forthwith discontinue disposition of Registrable Securities pursuant to any Registration Statement covering such Registrable Securities until such Holder's receipt of written notice from the Company that a supplement or amendment has been made. Each Holder also agrees that, except as required by applicable law or regulation, such Holder will treat as confidential the receipt of any notice from the Company of the occurrence of an event as set forth above and shall not disclose or use the information contained in such notice without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally, other than as a result of disclosure by a Holder in breach of the terms of this Agreement.

(g) The Company will use all commercially reasonable efforts to timely file such reports pursuant to the Exchange Act as are necessary in order to make generally available to its securityholders an earnings statement for the purposes of, and to provide the benefits contemplated by, the last paragraph of Section 11(a) of the Securities Act.

(h) In the case of a Demand Offering in which one or more Holders are participating, the Company will enter into and perform its obligations under customary agreements (including an underwriting agreement, if any, in customary form) and take such other actions as are reasonably required in order to expedite or facilitate the disposition of the Registrable Securities (including, to the extent

reasonably requested by the managing underwriter(s), sending appropriate officers of the Company to attend "road shows" scheduled in reasonable number and at reasonable times in connection with any such Demand Offering, and obtaining customary comfort letters and legal opinions) in connection with such Demand Offering.

(i) The Company will make available for inspection by any Holder, any underwriter participating in any disposition of such Registrable Securities pursuant to a Registration Statement and any attorney, accountant or other professional retained by any such Holder or underwriter, all financial and other records (including Commission comment letters), pertinent corporate documents and properties of the Company as shall be reasonably necessary to enable them to exercise their due diligence responsibility, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such Persons in connection with such due diligence, subject to entry by each such Person of a customary confidentiality agreement in a form reasonably acceptable to the Company; **provided, however, that** the Holders, participating underwriters and their representatives, if any, will use all commercially reasonable efforts to coordinate the foregoing inspection and information gathering so as to not materially disrupt the Company's business operations.



(j) The Company will use all commercially reasonable efforts to cause all Registrable Securities covered by any Registration Statement to be listed on each securities exchange on which similar securities issued by the Company are then listed.

(k) The Company will use all commercially reasonable efforts to provide a transfer agent, registrar and CUSIP number for all Registrable Securities covered by any Registration Statement not later than the effective date of the applicable Registration Statement.

(l) The Company will use reasonable best efforts to comply (and continue to comply) with all applicable rules and regulations of the Commission, and make generally available to its security holders, as soon as reasonably practicable after the effective date of the registration statement (and in any event within forty-five (45) days, or ninety (90) days if it is a fiscal year, after the end of such twelve month period described hereafter), an earnings statement (which need not be audited) covering the period of at least twelve (12) consecutive months beginning with the first day of the Company's first calendar quarter after the effective date of the registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

(m) The Company agrees that it will take no direct or indirect action prohibited by Regulation M under the Exchange Act.

(n) If an Automatic Shelf Registration Statement has been outstanding for at least three (3) years, at or prior to the end of the third year, the Company agrees to refile a new Automatic Shelf Registration Statement covering the Registrable Securities, and, if at any time when the Company is required to re-evaluate its WKSI status the Company determines that it is not a WKSI, refile the Automatic Shelf Registration Statement on Form S-3 and, if such form is not available, Form S-1, and keep such registration statement effective during the period during which such registration statement is required to be kept effective hereunder.

(o) The Company agrees to make available the executive officers of the Company to participate with the Holders and any underwriters in any "road shows" or other selling efforts that may be reasonably requested by any managing underwriter in connection with the methods of distribution for the Registrable Securities.

(p) In addition to the Notice and Questionnaire, the Company may require each Holder of Registrable Securities to promptly furnish in writing to the Company such information regarding such Holder, the Registrable Securities held by it and the intended method of distribution of the Registrable Securities as the Company may from time to time reasonably request and such other information as may be legally required to be included in the Registration Statement in connection with such Registration Statement or Demand Offering. Each Holder further agrees to furnish as soon as reasonably practicable to the Company all information required to be disclosed in order to provide that information previously furnished to the Company by such Holder does not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements in any registration statement not misleading in light of the circumstances in which they were made, and the Company agrees to promptly update any Registration Statement to reflect such information.

(q) In the case of a Demand Offering, no Holder may participate unless such Holder (i) agrees to sell the Registrable Securities it desires to have included in the Demand Offering on the basis provided in underwriting arrangements in customary form and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents customarily required under the terms of such underwriting arrangements, as negotiated by the Company (other than those provisions relating to the Holders); **provided that** such Holder shall not be required to make any representations or warranties other than those related to title and ownership of such Holder's shares and as to the accuracy and completeness of statements made in the applicable registration statement, prospectus or other document in reliance upon and in conformity with written information furnished to the Company or the managing underwriter(s) by such Holder for use therein. No Holder will offer or sell, without the Company's consent, any Registrable Securities by means of any "free writing prospectus" (as defined in Rule 405 under the Securities Act) that is required to be filed by the Holder with the Commission pursuant to Rule 433 under the Securities Act.

(r) The Company will cooperate with the Holders and the managing underwriter(s) to facilitate the timely preparation and delivery of book-entry statements or certificates (which shall not bear any restrictive legends unless required under applicable law) representing Registrable Securities sold under any Registration Statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter(s) or such Holders may request and cause its transfer agent to cooperate in connection with any transfer of Registrable Securities pursuant to a Registration Statement or Demand Offering.

Section 2.5. **Registration Expenses**. In connection with any Registration Statement or Demand Offering in which one or more Holders are participating, the Company shall pay all customary registration and offering expenses incurred, regardless of whether such Registration Statement is declared effective by the Commission or such Demand Offering is completed including: (a) all registration, filing and stock exchange fees, (b) fees and expenses of compliance with securities or "blue sky" laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), (c) printing expenses, (d) internal expenses of the Company (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (e) the fees and expenses incurred in connection with the listing of the Registrable Securities, (f) the fees and disbursements of legal counsel for the Company and customary fees and expenses for independent certified public accountants retained by the Company, including in connection with the preparation of any Registration Statements, comfort letters, and any custodian, transfer agent and registrar fees, (g) reasonable fees and disbursements of one firm of attorneys as legal counsel for all Holders, any required local counsel to the Holders, and any additional legal counsel required because representation of the Holders by a single counsel would be inappropriate due to actual or potential differing interests between such Holders; **provided that** the Company will not be responsible for fees and disbursements of any additional legal counsel for all Holders, and (h) the reasonable fees and expenses of any special experts retained by the Company in connection with such Registration Statement and/or Demand Offering. The Company shall have no obligation to pay any transfer taxes or underwriting, brokerage or other similar fees, discounts or commissions attributable to the sale of Registrable Securities or expenses borne by the underwriters.



Section 2.6. **Indemnification by the Company.** The Company agrees to indemnify and hold harmless, each Holder of Registrable Securities and each of its employees, advisors, agents, representatives, members, partners, officers and directors and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such Holder, and each of such controlling person's employees, advisors, agents, representatives, members, partners, officers and directors (collectively, the "**Holder Affiliates**") from and against, as incurred, any and all losses, claims, damages, judgments and liabilities (or actions in respect thereof) (the "**Liabilities**") that arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any registration statement, preliminary prospectus, prospectus, or free writing prospectus (including all document incorporated therein by reference) relating to the Registrable Securities (in each case, as amended or supplemented if the Company shall have furnished any amendments or supplements thereto), or that arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (with respect to any preliminary prospectus, prospectus or free writing prospectus, in light of the circumstances under which they were made), not misleading, or any violation by the Company of the Securities Act or of the Exchange Act, and will reimburse each such Holder and Holder Affiliate for any legal or other expenses reasonably incurred in connection with investigating, defending or settling any such Liabilities as and when incurred, except insofar as such Liabilities arise out of or are based upon any such untrue statement or omission or alleged untrue statement or omission included in reliance upon and in conformity with information furnished in writing to the Company by such Holder or on such Holder's behalf

expressly for inclusion in a Registration Statement (or any amendment thereto) or any prospectus (or any amendment or supplement thereto).

Section 2.7. **Indemnification by Holders and Underwriters of Registrable Securities**. Each Holder agrees, severally but not jointly or jointly and severally, to indemnify and hold harmless the Company, and each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act ("**Controlling Persons**") to the same extent as the foregoing indemnity from the Company to such Holder, but only with respect to information relating to such Holder included in reliance upon and in conformity with information furnished in writing by such Holder or on such Holder's behalf expressly for use in any registration statement, preliminary prospectus, prospectus or free writing prospectus relating to the Registrable Securities, or any amendment or supplement thereto; **provided that** the liability of each Holder shall be limited to the net proceeds (after deducting underwriting commissions and discounts, if any) received by such Holder from the sale of its Registrable Securities pursuant to any such registration statement. In case any action or proceeding shall be brought against the Company or the Company's Controlling Persons, in respect of which indemnity may be sought against such Holder, such Holder shall have the rights and duties given to the Company, and the Company or the Company's Controlling Persons shall have the rights and duties given to such Holder, by Section 2.8.



Section 2.8. **Conduct of Indemnification Proceedings**. In case any proceeding (including any governmental investigation) shall be instituted involving any Person in respect of which indemnity may be sought pursuant to Section 2.6 or 2.7, such Person (an "**Indemnified Party**") shall promptly notify the Person against whom such indemnity may be sought (an "**Indemnifying Party**") in writing and the Indemnifying Party shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such Indemnified Party, and shall assume the payment of all fees and expenses; **provided that** the failure of any Indemnified Party to give such notice will not relieve such Indemnifying Party of any obligations under Section 2.6 or 2.7, except to the extent such Indemnifying Party is materially prejudiced by such failure; **provided further**, **that** the failure to notify an Indemnifying Party shall not relieve it from any liability that it may have to an Indemnified Party otherwise under Section 2.6 or 2.7. In any such proceeding, any Indemnified Party shall have the right to retain its own counsel, including any local counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (a) the Indemnifying Party and the Indemnified Party shall have mutually agreed to the retention of such counsel, (b) representation of the Indemnified Party by the counsel retained by the Indemnifying Party would be inappropriate due to actual or potential differing interests between the Indemnifying Party and the Indemnified Party, or (c) the Indemnifying Party shall have failed to diligently assume the defense of such claim and employ counsel reasonably satisfactory to such Indemnified Party. Except as set forth at the end of the prior sentence, it is understood that the Indemnifying Party shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such Indemnified Parties, and that all such fees and expenses shall be reimbursed as they are incurred, and the Indemnified Party shall otherwise have the right to employ separate counsel and to participate in the defense of such claim at its own expense. In the case of any such separate firm for the Indemnified Parties, such firm shall be designated in writing by (i) in the case of Persons indemnified pursuant to Section 2.6 hereof, the Holders which owned a majority of the Registrable Securities sold under the applicable registration statement and (ii) in the case of Persons indemnified pursuant to Section 2.7, the Company, in each case, subject to the written consent of the Indemnifying Party (such consent shall not be unreasonably withheld, conditioned or delayed). The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its written consent (such consent shall not be unreasonably withheld, conditioned or delayed), but if settled with such consent, or if there be a final judgment for the plaintiff, the Indemnifying Party shall indemnify and hold harmless such Indemnified Parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability arising out of such proceeding without any admission of liability by such Indemnified Party.

Section 2.9. **Contribution**. If the indemnification provided for in Section 2.6 or 2.7 hereof is unavailable to an Indemnified Party or insufficient in respect of any losses, claims, damages or liabilities that otherwise would have been covered by Section 2.6 or 2.7 hereof, then each such Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages or liabilities in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and of each such Indemnified Party, on the other hand, in connection with such statements or omissions which resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party on the one hand and of each Indemnified Party on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by such party.

The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 2.9 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an Indemnified Party as a result of the losses, claims, damages or liabilities referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 2.9, the liability of each Holder shall be limited to the net proceeds (after deducting underwriting commissions and discounts, if any) received by such Holder from the sale of its Registrable Securities pursuant to any such registration statement. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Holder's obligations to contribute pursuant to this Section 2.9, if any, are several in proportion to the proceeds of the offering actually received by such Holder (after deducting underwriting commissions and discounts, if any) bears to the total proceeds of the offering received by all the Holders and not joint.

For purposes of this Section 2.9, each Person, if any who controls a Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as a Holder, and each director of the Company, and each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Company.

If indemnification is available hereunder, the Indemnifying Parties shall indemnify each Indemnified Party to the full extent provided in Section 2.6 or 2.7, as applicable, without regard to the relative fault of said Indemnifying Party or Indemnified Party or any other equitable consideration provided for in Section 2.9.

The indemnification and contribution provided for under this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Party or any officer, director, or Controlling Person of such Indemnified party and will survive the transfer of securities.

Any Indemnified Parties pursuant to this Agreement shall be third-party beneficiaries of Sections 2.6, 2.7, 2.8 and 2.9.



Section 2.10. **Rule 144**. The Company covenants that it will use all commercially reasonable efforts to make and keep current public information regarding the Company available as those terms are defined in Rule 144 and file in a timely manner any reports and documents required to be filed by it under the Securities Act and the Exchange Act. Upon the request of any Holder, (a) the Company shall furnish to any Holder (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time more than 90 days after the effective date of the registration statement for the Company's IPO), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), and (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (b) the Company shall use all commercially reasonable efforts to take such further action as any Holder may reasonably request, all to the extent required from time to time to enable Holders to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144.

Section 2.11. **Suspension of Use of Registration Statement**. The Company shall have the right, in limited circumstances, to postpone its obligations in connection with a Demand Registration or Underwritten Offering Demand and/or suspend the use of any Registration Statement that has become effective for up to 60 consecutive calendar days (except as a result of a refusal by the Commission to declare a post-effective amendment to a Registration Statement effective after the Company has used all commercially reasonable efforts to cause the post-effective amendment to be declared effective by the Commission, in which case, the Company must terminate the black-out period immediately following the effective date of the post-effective amendment) and not more than twice in any consecutive 12-month period or within 60 days of any prior postponement or suspension (a "**Suspension Period**") if: a majority of the Board of the Company determines in good faith (A) that any such action would interfere with any material proposed financing,

offer or sale of securities, acquisition, corporate reorganization or other material transaction involving the Company; (B) that any such action would require premature disclosure of material non-public information that the Company has a bona fide business purpose for preserving as confidential; (C) that any such action would render the Company unable to comply with requirements under the Securities Act or Exchange Act; or (D) that it is required by law, rule or regulation to supplement the Registration Statement or file a post-effective amendment to the Registration Statement in order to ensure that the prospectus (1) contains the information required under Section 10(a)(3) of the Securities Act, (2) discloses any facts or events arising after the effective date of the Registration Statement (or of the most recent post-effective amendment) that, individually or in the aggregate, represents a fundamental change in the information set forth therein or (3) discloses any material information with respect to the plan of distribution that was not disclosed in the Registration Statement or any material change to such information; **provided that** the Company notifies the applicable Holders in writing of the Board's determination to this effect (a "**Suspension Notice**"). Upon the occurrence of any such suspension, the Company shall use all commercially reasonable efforts to cause the Registration Statement to become effective or to promptly amend or supplement such Registration Statement on a post effective basis or to take such action as is necessary to make resumed use of the Registration Statement as soon as practicable. Each Holder agrees that such Holder shall not dispose of any Registrable Securities pursuant to a Registration Statement during any Suspension Period of which it has actual notice, shall treat as confidential the receipt of such Suspension Notice and shall not disclose or use the information contained in such Suspension Notice without the prior written consent of the Company until the earlier of such time as the information contained therein is or becomes available to the public generally, other than as a result of disclosure by a Holder in breach of the terms of this Agreement, or the end of the applicable Suspension Period. The Company agrees to notify the Holders in writing as promptly as practicable following the end of a Suspension Period and the Holders may thereafter recommence effecting sales of the Registrable Securities pursuant to the Registration Statement (or such filings).



Section 2.12. **Lock-Ups**.

(a) In connection with any underwritten offering of Class A Common Stock by a Holder pursuant to this Agreement or by the Company, the Company and each Holder agree to enter into customary lock-up agreements, as negotiated by the Company, restricting, among other things, future sales of Class A Common Stock by such Persons; **provided that** in no event shall the length of the restrictions contained in the lock-up agreement required to be signed by the Holders extend beyond the duration of the similar restrictions agreed to by the Company, with respect to the Company's or the activity of its directors', managers' and executive officers' activity (whichever period is shorter), in connection with such offering.

(b) Each Holder shall receive the benefit of any shorter lock-up period or permitted exceptions (on a pro rata basis) agreed to by the managing underwriter(s) pursuant to this Agreement; provided, that nothing herein will prevent any Holder that is a limited liability company, partnership or corporation from making a distribution of shares of Class A Common Stock to the members, partners or stockholders thereof or a transfer to an Affiliate that is otherwise in compliance with the applicable securities laws, so long as such distributees or transferees agree to be bound by the restrictions set forth in this Section 2.12 (subject to any exceptions the managing underwriter(s) may agree). Each such Holder agrees to execute a lock-up agreement in favor of the underwriters to such effect and, in any event, that the underwriters in any relevant offering shall be third-party beneficiaries of this Section 2.12.

(c) Any discretionary waiver or termination of the requirements under the foregoing provisions made by the managing underwriter(s) shall apply to each Holder on a pro rata basis in accordance with the number of Registrable Securities owned by each such Holder.

(d) The obligations of any person under this Section 2.12 are not in limitation of holdback or transfer restrictions that may otherwise apply by virtue of any other agreement or undertaking.

## ARTICLE III

## MISCELLANEOUS

Section 3.1. **Remedies**. In addition to being entitled to exercise all rights provided herein and granted by law, including recovery of damages, the Holders shall be entitled to specific performance of the rights under this Agreement. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Agreement and hereby agrees to waive the defense in any action for specific performance that a remedy at law would be adequate.

Section 3.2. **Amendments and Waivers**. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, in each case without the written consent of (i) the Company and (ii) Holders that hold a majority of the outstanding Registrable Securities on the date of this Agreement; **provided**, that no amendment to this Agreement shall be effected if such amendment materially adversely affects a Holder or group of Holders in a manner that is disproportionate relative to the effect on any other Holder, unless such Holder or Holders holding a majority of the Registrable Securities of such group of Holders at the relevant time of determination consents thereto. No failure or delay by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon any breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

Section 3.3. **Notices**. All notices and other communications in connection with this Agreement shall be made in writing by hand delivery or courier guaranteeing overnight delivery, by facsimile transmission, email, or such other means as are agreed to by the parties hereto:

(a) if to any Holder, initially to the address or email address indicated in such Holder's Notice and Questionnaire or, if no Notice and Questionnaire has been delivered, to the address or email address provided by the Holder in writing to the Company; and

(b) if to the Company, at Preston Hollow Community Capital, Inc., 1717 Main Street, Suite 3900, Dallas, Texas 75201, Attention: Greg May, email: gmay@phcllc.com or to such other address or email address as the Company may hereafter specify in writing.

All such notices and communications shall be deemed to have been duly given, delivered, sent, received and provided for purposes of this Agreement: at the time delivered by hand, if personally delivered; at time sent, if delivered by email; and on the next Business Day, if timely delivered to a courier guaranteeing overnight delivery.

Section 3.4. **Successors and Assigns; Assignment of Registration Rights**.

(a) The rights of each Holder under this Agreement with respect to Registrable Securities that constitute at least 1% of the Company's outstanding Class A Common Stock (including Class A Common Stock issuable upon the redemption of Class A OP Units) may be assigned to a transferee; provided, however, (i) that any such transfer is permitted in accordance with the PHC LLCA and the organizational documents of the Company and Operating Partnership, (ii) that any such transfer is not made pursuant to Rule 144 under the Securities Act or a registration statement filed pursuant to this Agreement, and (iii) that the Company is given written notice by such Holder at or within a reasonable time after said transfer, stating the name and address of such transferee and identifying the Registrable Securities with respect to which such registration rights are being transferred. Notwithstanding the foregoing, any Holder may: (A) transfer rights to a transferee with respect to its Registrable Securities if such transferee is (x) an Affiliate or Affiliated Investor of any Holder or (y) any family member or trust for the benefit of any individual Holder; and (B) transfer rights in connection with effecting in-kind or similar distributions of all or part of its Registrable Securities to its direct or indirect equityholders, managers, employees, agents or representatives. Any such transferee permitted by this Section 3.4(a) (an "**Eligible Assignee**") shall be required to execute a joinder to this Agreement in form and substance reasonably satisfactory to the Company, in which such transferee agrees to be bound by the terms and conditions of this Agreement.



(b) If the Company may at any time hereafter provide to any Person who is a holder of any securities of the Company rights with respect to the registration of such securities under the Securities Act, such rights shall not be in conflict with or adversely affect any of the rights provided to the Holders in, or conflict (in a manner that adversely affects the Holders) with any other provisions included in, this Agreement; provided, however, that any rights which are the same as or equal to the rights provided in this Agreement will not be considered in conflict with or to adversely affect the rights of the Holders provided in this Agreement. To the extent the Company provides any right to others that are more favorable than those provided for herein, this Agreement shall be deemed to be automatically modified to ensure that such Holders will have the benefit of terms that are at least as favorable as those provided to such other Persons. The Company shall provide prompt notice to the Holders of any such modifications.

Section 3.5. **Counterparts**. This Agreement may be executed in multiple counterparts. If so executed, all of such counterparts shall constitute but one agreement, and, in proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or electronic mail PDF copies of counterparts of the signature pages.

Section 3.6. **Governing Law**. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without regard to the choice of law or conflict of law provisions thereof.

Section 3.7. **Severability**. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

Section 3.8. **Entire Agreement**. This Agreement is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein with respect to the registration rights granted by the Company with respect to the Registrable Securities. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter. This Agreement will control in all respects a Registration Statement filed pursuant to this Agreement, or any other matter covered hereby, with respect to Registrable Securities.



Section 3.9. **Headings**. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

Section 3.10. **Termination**. Notwithstanding any other provision of this Agreement, the obligations of the parties under this Agreement shall cease when all Class A Common Stock that comprise Registrable Securities cease to be Registrable Securities, except, in each case, for any obligations under Sections 2.6, 2.7, 2.8, 2.9, and 2.10.

Section 3.11. **Waiver of Jury Trial**. The parties hereto (including any Initial Holder and any subsequent Holder) irrevocably waive any right to trial by jury.

Section 3.12. **No Third-Party Beneficiaries**: The Holders (other than the Initial Holder) are intended third-party beneficiaries under this Agreement. Any Indemnified Parties pursuant to this Agreement shall be third-party beneficiaries of Section 2.6, 2.7, 2.8 and 2.9. The underwriters in any relevant offering shall be third-party beneficiaries of Section 2.12. Other than such Holders and such Indemnified Parties and underwriters, as applicable, each of the provisions of this Agreement is for the sole and exclusive benefit of the parties hereto and shall not be deemed for the benefit of any other person or entity.

Section 3.13. **No Required Sale**. Nothing in this Agreement shall be deemed to create an independent obligation on the part of any Holder to sell any Registrable Securities pursuant to any effective registration statement. A Holder is not required to include any of its Registrable Securities in any registration statement, is not required to sell any of its Registrable Securities which are included in any effective registration statement, and may sell any of its Registrable Securities in any manner in compliance with applicable law (including pursuant to Rule 144) even if such shares are already included on an effective registration statement.

Section 3.14. **Opt-Out Requests**. Each Holder shall have the right, at any time and from time to time (including after receiving information regarding any potential offering by the Company), to elect to not receive any notice that the Company or any other Holders otherwise are required to deliver pursuant to this Agreement by delivering to the Company a written statement signed by such Holder that it does not want to receive any notices hereunder (an "**Opt-Out Request**"); in which case and notwithstanding anything to the contrary in this Agreement the Company and other Holders shall not be required to, and shall not, deliver any notice or other information required to be provided to Holders hereunder; provided, however, that notwithstanding an Opt-Out Request, a Holder may still receive notice of, and be required to execute, any agreement required by Section 2.12. An Opt-Out Request shall remain in effect indefinitely unless a Holder who previously has given the Company an Opt-Out Request revokes such request, which a Holder may do at any time, and there shall be no limit on the ability of a Holder to issue and revoke subsequent Opt-Out Requests; provided that each Holder shall use commercially reasonable efforts to minimize the administrative burden on the Company arising in connection with any such Opt-Out

Requests. To the extent a Holder has issued and not subsequently revoked an Opt-Out Request, the Company shall not be deemed to be in violation of any provision of this Agreement for a failure to provide any notice that the Company or any other Holders would otherwise be required to deliver pursuant to this Agreement.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**, a Maryland corporation

By: _____
Name:
Title:



Intial Holder:

**PRESTON HOLLOW CAPITAL, LLC**

By:
Name:
Title

**Exhibit 10.3**

CLIFFORD CHANCE

CLIFFORD CHANCE US LLP

FORM OF FIRST AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
PHCC OP, LP

a Delaware Limited Partnership

CERTAIN OF THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS IN THE OPINION OF COUNSEL SATISFACTORY TO THE PARTNERSHIP THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

Dated as of [●], 2021

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**TABLE OF CONTENTS**

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THIS FIRST AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PHCC OP, LP (the "**Partnership**"), dated as of [●], 2021 is entered into by and among (i) PHCC GP, LLC, a Delaware limited liability company (the "**General Partner**") and wholly-owned subsidiary of Preston Hollow Community Capital, Inc., a Maryland corporation (the "**Parent**"), (ii) the Limited Partners identified in the Ownership Schedule holding Class A common units of limited partner interest (the "**Class A OP Units**"), (iii) the Limited Partners identified on the Ownership Schedule as holding Class B common units of limited partner interest

(the "**Class B OP Units**") and (iv) such persons who may be admitted from time to time as partners of the Partnership in accordance with the terms and provisions of this Agreement. Capitalized terms used and not otherwise defined in this Agreement shall have the meanings ascribed to them in Article I below.

WHEREAS, a Certificate of Limited Partnership of the Partnership was filed and accepted by the Secretary of State of the State of Delaware on June 22, 2021;

WHEREAS, the Parent and Preston Hollow Capital, LLC, a Delaware limited liability company ("**PHC LLC**") entered into an Agreement of Limited Partnership of PHCC OP, LP, dated as of June 23, 2021, pursuant to which the Partnership was formed (the "**Original Agreement**");

WHEREAS, concurrently with, or prior to, the execution of this Agreement, the Partnership entered into or caused its Subsidiaries to enter into that certain Contribution Agreement dated as of [●], 2021 (the "**Contribution Agreement**") by and among the Partnership, the Parent, and PHC LLC under which PHC LLC contributed various entities and assets, as the case may be, to the Partnership and/or one or more Subsidiaries of the Partnership and the Partnership assumed certain liabilities of PHC LLC (the "**Contributions**") in exchange for (i) the issuance by the Partnership to PHC LLC of Class A OP Units, (ii) the issuance by Parent to PHC LLC of shares of Parent Class B Stock intended to provide PHC LLC with voting power in Parent (with respect to matters submitted to holders of Parent Common Stock generally) that is commensurate with the economic interest of the Class A OP Units in the Partnership held by Parent as of the date of this Agreement, and (iii) the issuance by the Partnership to the Parent of a number of Class B OP Units equal to the number of shares of such Parent Class B Stock;

WHEREAS, in order to implement the issuance of such Class A OP Units and Class B OP Units and in order to adopt an agreement of limited partnership that, subject to the adoption of any future amendments, will hereafter govern the affairs of the Partnership, the Parent, the General Partner and PHC LLC desire to amend and restate the Original Agreement in its entirety by entering into this Agreement;



NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend and restate the Original Agreement in its entirety and agree to continue the Partnership as a limited partnership under the Delaware Revised Uniform Limited Partnership Act, as amended from time to time, as follows:

## ARTICLE I

## DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

"**Act**" means the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101 *et seq.*), as it may be amended from time to time, and any successor to such statute.

"**Actions**" has the meaning set forth in Section 7.07 hereof.

"**Additional Funds**" has the meaning set forth in Section 4.04(a) hereof.

"**Additional Limited Partner**" means a Person who is admitted to the Partnership as a Limited Partner pursuant to Section 4.03 and Section 12.02 hereof and who is shown as such in the Ownership Schedule of the Partnership.

"**Adjusted Capital Account**" means the Capital Account maintained for each Partner as of the end of each Fiscal Year (i) increased by any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) decreased by the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6). The foregoing

definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"**Adjusted Capital Account Deficit**" means, with respect to any Partner, the deficit balance, if any, in such Partner's Adjusted Capital Account as of the end of the relevant Partnership Year.

"**Adjustment Event**" has the meaning set forth in Section 4.06(a) hereof.

"**Adjustment Factor**" means 1.0; **provided**, **however**, **that** in the event that:

(i) the Parent (a) declares or pays a dividend on its outstanding shares of Parent Class A Stock wholly or partly in shares of Parent Class A Stock or makes a distribution to all holders of its outstanding shares of Parent Class A Stock wholly or partly in shares of Parent Class A Stock, (b) splits or subdivides its outstanding shares of Parent Class A Stock or (c) effects a reverse stock split or otherwise combines its outstanding shares of Parent Class A Stock into a smaller number of shares of Parent Class A Stock, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of shares of Parent Class A Stock issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (ii) the denominator of which shall be the actual number of shares of Parent Class A Stock (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;



(ii) the Parent distributes any rights, options or warrants to all holders of its shares of Parent Class A Stock to subscribe for or to purchase or to otherwise acquire shares of Parent Class A Stock (or other securities or rights convertible into, exchangeable for or exercisable for shares of Parent Class A Stock at a price per share less than the Value of a share of Parent Class A Stock on the record date for such distribution (each a "**Distributed Right**"), then the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of shares of Parent Class A Stock issued and outstanding on the record date plus the maximum number of shares of Parent Class A Stock purchasable under such Distributed Rights and (b) the denominator of which shall be the number of shares of Parent Class A Stock issued and outstanding on the record date plus a fraction (1) the numerator of which is the maximum number of shares of Parent Class A Stock purchasable under such Distributed Rights times the minimum purchase price per share of Parent Class A Stock under such Distributed Rights and (2) the denominator of which is the Value of a share of Parent Class A Stock as of the record date; **provided**, **however**, **that** if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of shares of Parent Class A Stock or any change in the minimum purchase price for the purposes of the above fraction; and

(iii) the Parent shall, by dividend or otherwise, distribute to all holders of its shares of Parent Class A Stock evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) above), which evidences of indebtedness or assets relate to assets not received by the Parent or its Subsidiaries pursuant to a *pro rata* distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business on the date fixed for determination of stockholders of the Parent entitled to receive such distribution by a fraction (i) the numerator of which shall be such Value of a share of Parent Class A Stock on the date fixed for such determination and (ii) the denominator of which shall be the Value of a share of Parent Class A Stock on the dates fixed for such determination less the then fair market value (as determined by the Parent, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one share of Parent Class A Stock; and

(iv) the Parent engages in other transaction not referred to clause (i), (ii) or (iii) above which in the judgment of the General Partner results in substantial dilution or enlargement of the economic interests of a share of Parent Class A Stock in relation to Class A OP Units, the Adjustment Factor previously in effect may be adjusted as determined in the sole discretion of the General Partner (with the approval of a majority of the Parent's Independent Directors) in order to prevent or mitigate such substantial dilution or enlargement of such relative economic interests.

Any adjustments to the Adjustment Factor shall become effective immediately after the effective date of such event, retroactive to the record date, if any, for such event.

"**Affiliate**" means, with respect to any Person, (i) any Person directly or indirectly controlling or controlled by or under common control with such Person, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting interests of such Person, (iii) any Person of which such Person owns or controls ten percent (10%) or more of the voting interests or (iv) any officer, director, general partner or trustee of such Person or any Person referred to in clauses (i), (ii), and (iii) above. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.



"**Agreement**" means this First Amended and Restated Agreement of Limited Partnership of PHCC OP, LP, as it may be amended, supplemented or restated from time to time.

"**Assets**" means any assets and property of the Partnership such as, but not limited to, interests in personal property and real property, note receivables, loan receivables, bonds, other debt instruments, fee interests, interests in ground leases, interests in limited liability companies, joint ventures or partnerships, as the Partnership may hold from time to time hold.

"**Assignee**" means a Person to whom Partnership Interests have been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in Section 11.05 hereof.

"**Available Cash**" means, with respect to any period for which such calculation is being made, the amount of cash flow from operations available for distribution by the Partnership as determined by the General Partner in its sole and absolute discretion.

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

"**Bylaws**" means the Bylaws of the Parent, as amended, supplemented or restated from time to time.

"**Capital Account**" means, with respect to any Partner, the Capital Account maintained by the General Partner for such Partner on the Partnership's books and records in accordance with the following provisions:

A. To each Partner's Capital Account, there shall be added such Partner's Capital Contributions, such Partner's distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.03 hereof, and the principal amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.

B. From each Partner's Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.03 hereof, and the principal amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.



C. In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

D. In determining the principal amount of any liability for purposes of subsections (a) and (b) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

E. The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations. If the

General Partner in its good-faith but sole discretion shall determine that it is prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification.

"**Capital Account Deficit**" has the meaning set forth in Section 13.02(c) hereof.

"**Capital Account Limitation**" has the meaning set forth in Section 4.07(b) hereof.

"**Capital Contribution**" means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Asset that such Partner contributes to the Partnership or is deemed to contribute to the Partnership pursuant to Section 4.04 hereof.

"**Cash Amount**" means, with respect to a Tendering Partner, an amount of cash equal to the product of (A) the Value of a share of Parent Class A Stock and (B) such Tendering Partner's Parent Class A Stock Amount determined as of the date of receipt by the General Partner, with a copy to the Parent, of such Tendering Partner's Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day.

"**Certificate**" means the Certificate of Limited Partnership of the Partnership filed in the office of the Secretary of State of the State of Delaware on June 22, 2021, as may be further amended from time to time in accordance with the terms hereof and the Act.

"**Charter**" means the Articles of Amendment and Restatement of Parent dated [●], 2021, as amended, supplemented or restated from time to time.

"**Class A OP Unit**" has the meaning set forth in the recitals hereto.

"**Class A OP Unit Economic Balance**" has the meaning set forth in Section 6.03(d) hereof.

"**Class B OP Unit**" has the meaning set forth in the recitals hereto.

"**Closing Price**" has the meaning set forth in the definition of "Value."

"**Code**" means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.



"**Contributed Asset**" means each Asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership (or deemed contributed by the Partnership to a "new" partnership pursuant to Code Section 708) net of any liabilities assumed by the Partnership relating to such Contributed Asset and any liability to which such Contributed Asset is subject.

"**Debt**" means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person's interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

"**Depreciation**" means, for each Partnership Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or period, Depreciation shall be in an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; **provided**, **however**, **that** if the federal income tax depreciation, amortization or other cost recovery deduction for such year or period is

zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

"**Distributed Right**" has the meaning set forth in the definition of "Adjustment Factor."

"**Economic Capital Account Balance**" has the meaning set forth in Section 6.03(d) hereof.

"**Equity Incentive Plan**" means (i) the Parent's equity incentive plan in place on the date hereof and (ii) any equity incentive plan adopted by the Partnership or the Parent following the date hereof, in each case with the approval of the board of directors or compensation committee of Parent.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

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

"**Forced Conversion**" has the meaning set forth in Section 4.07(c) hereof.

"**Forced Conversion Notice**" has the meaning set forth in Section 4.07(c) hereof.

"**GAAP**" means generally accepted accounting principles, as applied in the United States.



"**General Partner**" means PHCC GP, LLC, a Delaware limited liability company and wholly-owned subsidiary of Parent, together with its successors and assigns, as the general partner of the Partnership.

"**General Partner Interest**" means the non-economic Partnership Interest held by the General Partner, which Partnership Interest is an interest as a general partner under the Act and which Partnership Interest includes all benefits, rights and authority to which the holder of a General Partner Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement in such capacity.

"**Gross Asset Value**" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset as determined by the General Partner in its sole discretion.

(b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clause (i) through clause (iv) hereof shall be adjusted to equal their respective gross fair market values, as determined by the General Partner in its sole discretion using such reasonable method of valuation as it may adopt, as of the following times:

(i) the acquisition of an additional interest in the Partnership (other than in connection with the execution of this Agreement) by a new or existing Partner in exchange for more than a *de minimis* Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Assets as consideration for an interest in the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(iii) the grant of an interest in the Partnership (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Partnership by an existing Partner acting in its capacity as a Partner, or by a new Partner acting in its capacity as a Partner or in anticipation of becoming a Partner;

(iv) the issuance of a noncompensatory option to acquire an interest in the Partnership (other than a *de minimis* interest);

(v) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(vi) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Section 1.704-1(b).



(c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner; **provided**, **that**, if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by an independent third party experienced in the valuation of similar assets, selected by the General Partner in good faith.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); **provided**, **however**, **that** Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).

(e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

"**Holder**" means either (a) a Partner or (b) an Assignee, owning a Partnership Unit, that is treated as a Partner of the Partnership for federal income tax purposes.

"**Incapacity**" or "**Incapacitated**" means, (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage his or her person or his or her estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, or the revocation of the corporation's charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within 120 days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within 90 days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within 90 days after the expiration of any such stay.



"**Indemnitee**" means (i) any Person made a party to a proceeding by reason of its status as (A) the Parent, the General Partner or any successor thereto or (B) a member of the General Partner, stockholder of the Parent, or an officer or director of the Partnership, the General Partner, the Parent or a Subsidiary thereof and (ii) such other Persons (including Affiliates of the General Partner, the Parent

or the Partnership) as the Parent or General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"**Independent Directors**" means the directors of the Board of Directors of the Parent designated by Parent as "independent directors" for purposes of qualifying them as independent directors under the rules and regulations of the principal national securities exchange on which such shares of Parent Class A Stock are listed or admitted to trading or, if such common stock is not so listed, under director independence standards adopted by Parent from time to time.

"**IRS**" means the Internal Revenue Service, which administers the internal revenue laws of the United States.

"**Junior Unit**" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.01, 4.02, or 4.03 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the OP Units.

"**Limited Partner**" means any Person named as a Limited Partner in the Ownership Schedule or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner in the Partnership named in the Ownership Schedule, as amended and restated from time to time.

"**Limited Partner Interest**" means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of Class A OP Units, Class B OP Units, Preferred Units, Junior Units or other Partnership Units.

"**Liquidating Event**" has the meaning set forth in Section 13.01 hereof.

"**Liquidating Gains**" has the meaning set forth in Section 6.03(d) hereof.

"**Liquidator**" has the meaning set forth in Section 13.02(a) hereof.

"**LTIP Award**" means each or any, as the context requires, long-term incentive plan award issued under any Equity Incentive Plan.



"**LTIP Unit**" means a Partnership Unit which is designated as an LTIP Unit and which has the rights, preferences and other privileges designated in Section 4.06 hereof (except as may be varied by the designations applicable to any particular class of LTIP Units) and elsewhere in this Agreement (including any exhibit hereto creating any new class or series of LTIP Units) or in the Equity Incentive Plan or the award, vesting or other agreement pursuant to which an LTIP Unit is granted to the holder thereof. The allocation of LTIP Units among the Partners shall be set forth on the Ownership Schedule, as may be amended from time to time.

"**LTIP Unitholder**" means a Partner that holds LTIP Units.

"**Majority in Interest of the Class A OP Units**" means Limited Partners (excluding any Limited Partner Interests held by the Parent, the General Partner or their Subsidiaries) holding more than 50% of the outstanding Class A OP Units and any other Partnership Units voting as single class with Class A OP Units that are held by Limited Partners who are not excluded for the purposes hereof.

"**Market Price**" has the meaning set forth in the definition of "Value."

"**Net Income**" or "**Net Loss**" means, for each Partnership Year of the Partnership, an amount equal to the Partnership's taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss" shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(b) any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss," shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(c) in the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) in lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year;

(f) to the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and



(g) notwithstanding any other provision of this definition of "Net Income" or "Net Loss," any item that is specially allocated pursuant to Section 6.03 hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially allocated pursuant to Section 6.03 hereof shall be determined by applying rules analogous to those set forth in this definition of "Net Income" or "Net Loss."

"**New Securities**" means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase Parent Common Stock, Parent Preferred Stock or Parent Junior Stock, except that "New Securities" shall not mean any Parent Preferred Stock, Parent Junior Stock or grants under the Equity Incentive Plan or (ii) any Debt issued by the Parent or General Partner that provides any of the rights described in clause (i).

"**Nonrecourse Deductions**" has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

"**Nonrecourse Liability**" has the meaning set forth in Regulations Section 1.752-1(a)(2).

"**Notice of Redemption**" means the Notice of Redemption substantially in the form of Exhibit B attached to this Agreement.

"**NYSE**" means the New York Stock Exchange.

"**OP Units**" mean the Class A OP Units, Class B OP Units and series of such units together with any other class or series of common units of limited partner interest that may be created in the future and issued pursuant to Sections 4.01, 4.02, 4.03, but does not include any LTIP Units, Preferred Units, Junior Units or any other Partnership Units specified in a Partnership Unit Designation as being other than an OP Unit.

"**Ownership Information**" has the meaning set forth in Section 2.07 herein.

"**Ownership Schedule**" has the meaning set forth in Section 2.07 herein.

"**Parent**" has the meaning set forth in the introduction to this Agreement.

"**Parent Class A Stock**" means shares of the Parent's Class A Common Stock, par value $0.01 per share.



"**Parent Class A Stock Amount**" means a number of shares of Parent Class A Stock equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor in effect on the Specified Redemption Date with respect to such Tendered Units; **provided**, **however**, **that** in the event that the Parent issues to all holders of shares of Parent Class A Stock as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling the Parent's stockholders to subscribe for or purchase shares of Parent Class A Stock, or any other securities or property (collectively, the "**Rights**"), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the Parent Class A Stock Amount shall also include such Rights that a holder of that number of shares of Parent Class A Stock would be entitled to receive, expressed, where relevant hereunder, in a number of shares of Parent Class A Stock determined by the General Partner in good faith.

"**Parent Class B Stock**" means shares of the Parent's Class B Common Stock, $0.01 par value per share.

"**Parent Common Stock**" means, collectively, the Parent Class A Stock and Parent Class B Stock and any future class or series of shares of the Parent if so designated in the Parent's sole discretion.

"**Parent Junior Stock**" means a share of capital stock of the Parent now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the Parent Common Stock.

"**Parent Preferred Stock**" means a share of capital stock of the Parent now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Parent Common Stock.

"**Parity LTIP Unit**" has the meaning set forth in Section 6.03(d) hereof.

"**Partner**" means the General Partner or a Limited Partner, and "**Partners**" means the General Partner and the Limited Partners.

"**Partner Minimum Gain**" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"**Partner Nonrecourse Debt**" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"**Partner Nonrecourse Deductions**" has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

"**Partnership**" means the limited partnership formed under the Act and pursuant to this Agreement (as set forth in the introduction to this Agreement), and any successor thereto.



"**Partnership Interest**" means an ownership interest in the Partnership held by either a Limited Partner or the and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. There may be one or more classes or series of Partnership Interests. A Partnership Interest may be expressed as a number of Class A OP Units, Class B OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

"**Partnership Minimum Gain**" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"**Partnership Record Date**" means a record date established by the General Partner for the distribution of Available Cash pursuant to Section 5.01 hereof, which record date shall generally be the same as the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution.

"**Partnership Unit**" means a Class A OP Unit, a Class B OP Unit, an LTIP Unit, a Preferred Unit, a Junior Unit or any other fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.01, 4.02 or 4.03 hereof.

"**Partnership Unit Designation**" has the meaning set forth in Section 4.02 hereof.

"**Partnership Year**" means the fiscal year of the Partnership and the Partnership's taxable year for federal income tax purposes, each of which shall be the calendar year unless otherwise required under the Code.

"**Percentage Interest**" means, as to a Partner holding a class or series of Partnership Interests, its interest in such class or series as determined by dividing the Partnership Units of such class or series owned by such Partner by the total number of Partnership Units of such class or series then outstanding as specified in the Ownership Schedule, as such Ownership Schedule may be amended from time to time. If the Partnership issues additional classes or series of Partnership Interests other than as contemplated herein, the interest in the Partnership among the classes or series of Partnership Interests shall be determined as set forth in the amendment to the Partnership Agreement setting forth the rights and privileges of such additional classes or series of Partnership Interest, if any, as contemplated by Section 4.03.

"**Person**" means an individual or a corporation, partnership (general or limited), trust, estate, custodian, nominee, unincorporated organization, association, limited liability company or any other individual or entity in its own or any representative capacity.

"**PHC LLC**" has the meaning set forth in the recitals.

"**Preferred Unit**" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.01, 4.02 or 4.03 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the OP Units.



"**Publicly Traded**" means listed or admitted to trading on the NYSE, the NYSE MKT LLC, the NASDAQ Stock Market or another national securities exchange or any successor to the foregoing.

"**Qualified Transferee**" means an "Accredited Investor" as defined in Rule 501 promulgated under the Securities Act.

"**Recourse Liabilities**" means the amount of liabilities owed by the Partnership (other than Nonrecourse Liabilities and liabilities to which Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-(2)(i) of the Regulations).

"**Redemption**" has the meaning set forth in Section 8.06(a) hereof.

"**Regulations**" means the applicable income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Regulatory Allocations**" has the meaning set forth in Section 6.03(a)(vii) hereof.

"**Rights**" has the meaning set forth in the definition of "Parent Class A Stock Amount."

"**Safe Harbors**" has the meaning set forth in Section 11.03(e).

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Services Agreement**" means that certain Shared Resources and Cooperation Agreement among PHC LLC, Parent and the Partnership dated the date hereof and any management, development or advisory agreement with an asset manager for the provision of, asset management, property management, leasing, development and/or similar services with respect to the Assets and any agreement for the provision of services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, financial advisors and other professional services.

"**Specified Redemption Date**" means the 10th Business Day following receipt by the General Partner, with a copy to the Parent, of a Notice of Redemption; **provided**, **that**, if the shares of Parent Class A Stock are not Publicly Traded, the Specified Redemption Date means the 30th Business Day following receipt by the General Partner, with a copy to the Parent, of a Notice of Redemption.

"**Subsidiary**" means, with respect to any Person, any other Person (which is not an individual) of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person.

"**Substituted Limited Partner**" means a Person who is admitted as a Limited Partner to the Partnership pursuant to Section 11.04 hereof.

"**Successor Entity**" has the meaning set forth in the definition of "Adjustment Factor."



"**Surviving Partnership**" has the meaning set forth in Section 11.02(b).

"**Target Balance**" has the meaning set forth in Section 6.03(d) hereof.

"**Tax Items**" has the meaning set forth in Section 6.04(a) hereof.

"**Tax Receivables Agreement**" means the Tax Receivables Agreement, effective on or about the date hereof, among PHC LLC, Parent, and the Partnership from time to time party thereto, as the same may be amended, modified, supplemented or restated from time to time.

"**Tendered Units**" has the meaning set forth in Section 8.06(a) hereof.

"**Tendering Partner**" has the meaning set forth in Section 8.06(a) hereof.

"**Terminating Capital Transaction**" means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

"**Termination Transaction**" has the meaning set forth in Section 11.02(b) hereof.

"**Transaction**" has the meaning set forth in Section 4.07(f) hereof.

"**Transfer**," when used with respect to a Partnership Unit, or all or any portion of a Partnership Interest, means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of law; **provided**, **however**, **that** when the term is used in Article XI hereof, "Transfer" does not include (a) any Redemption of Partnership Units by the Partnership, or acquisition of Tendered Units by the Parent, pursuant to Section 8.06 hereof or (b) any redemption of Partnership Units pursuant to any Partnership Unit Designation. The terms "**Transferred**" and "**Transferring**" have correlative meanings.

"**Transfer Agent**" means, with respect to any Partnership Units, such bank, trust company or other Person (including the Partnership or one of its Affiliates) as shall be appointed from time to time by the General Partner to act as registrar and transfer agent for such Partnership Units; **provided that** if no Transfer Agent is specifically designated for such Partnership Units, the General Partner shall act in such capacity.

"**Unvested Incentive Unit**" has the meaning set forth in Section 4.06(c)(i) hereof.

"**Value**" means, on any date of determination with respect to a share of Parent Class A Stock, the average of the daily Market Prices (as defined below) for ten consecutive trading days immediately preceding the date of determination; **provided**, **however**, **that** for purposes of Section 8.06, the "date of determination" shall be the date of receipt by the General Partner, with a copy to the Parent, of a Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day. The term "**Market Price**" on any date shall mean, with respect to shares of Parent Class A Stock, the Closing Price for such shares of Parent Class A Stock on such date. The "**Closing Price**" on any date shall mean the last sale price for such shares of Parent Class A Stock, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such shares of Parent Class A Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if such shares of Parent Class A Stock are not listed or admitted to trading on the New York Stock Exchange, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such shares of Parent Class A Stock are listed or admitted to trading or, if such shares of Parent Class A Stock are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the principal other automated quotation system that may then be in use or, if such shares of Parent Class A Stock are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such shares of Parent Class A Stock selected by the Board of Directors of the Parent or, in the event that no trading price is available for such shares of Parent Class A Stock, the fair market value of the shares of Parent Class A Stock, as determined in good faith by the Board of Directors of the Parent.



In the event that the Parent Class A Stock Amount includes Rights that a holder of shares of Parent Class A Stock would be entitled to receive, then the Value of such Rights shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"**Vested LTIP Unit**" has the meaning set forth in Section 4.06(c)(i) hereof.

"**Vested Parity LTIP Unit**" has the meaning set forth in Section 4.06(c)(v) hereof.

"**Vesting Agreement**" means each or any, as the context implies, Equity Incentive Plan entered into by an LTIP Unitholder upon acceptance of an award of LTIP Units under an Equity Incentive Plan.

## ARTICLE II

## ORGANIZATIONAL MATTERS

Section 2.01. **Organization**. The Partnership is a limited partnership organized pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.02. **Name and Business of Partnership and Appointment of the General Partner**. (a) The name of the Partnership is "PHCC OP, LP." The Partnership's business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words "Limited Partnership," "LP," "L.P.," "Ltd." or similar words or letters shall be included in the Partnership's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Partners of such change in the next regular communication to the Partners.

(b) PHCC GP, LLC, a Delaware limited liability company, and a wholly-owned subsidiary of Parent, shall be the general partner of the Partnership.

Section 2.03. **Registered Office and Agent; Principal Office**. The address of the registered office of the Partnership in the State of Delaware is located at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office is Corporation Service Company. The principal office of the Partnership is located at 1717 Main Street, Suite 3900, Dallas, Texas 75201 or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner deems advisable.

Section 2.04. **Power of Attorney**.

(a) Each Limited Partner and each Assignee hereby irrevocably constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(i) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, Article XI, Article XII or Article XIII hereof or the Capital Contribution of any Partner; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

(ii) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Partners hereunder or is consistent with the terms of this Agreement or appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to effectuate the terms or intent of this Agreement.



Nothing contained herein shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with Article XIV hereof or as may be otherwise expressly provided for in this Agreement.

(b) The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units or Partnership Interest and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner or Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within 15 days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership.

Section 2.05. **Term**. Pursuant to Sections 17-201(b) of the Act, the term of the Partnership commenced on June 22, 2021 and shall continue perpetually, unless it is dissolved pursuant to the provisions of Article XIII hereof or as otherwise provided by law.

Section 2.06. **Partnership Interests as Securities**. All Partnership Interests shall be securities within the meaning of, and governed by, (i) Article 8 of the Delaware Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

Section 2.07. **Ownership Schedule**. The Partnership or its designee (including any Transfer Agent) shall maintain and keep in its books and records a schedule of Partners and Partnership Units (the "**Ownership Schedule**"), on which it shall set forth the name and address of each Partner and such Partner's number and Percentage Interest of Class A OP Units, Class B OP Units, LTIP Units, and other Partnership Units (the "**Ownership Information**"). In addition, the Partnership shall keep each Partner's Capital Contributions that have been made by such Partner at any time in its books and records. The General Partner shall, without the consent of any Limited Partner, amend and restate the Ownership Schedule, from time to time, upon the issuance or transfer of any Partnership Unit to any new or existing Partner made in accordance with this Agreement. Upon five business days' prior written notice, the General Partner will provide any Limited Partner with (i) a copy of the Ownership Schedule showing the Ownership Information for such Limited Partner and any Affiliate thereof; **provided that** (except as permitted by clause (ii)) no Limited Partner shall be entitled to the Ownership Information of any unaffiliated Limited Partner; and (ii) a summary of the Ownership Schedule showing the Ownership Information without redaction for each affiliated group of Limited Partners on an aggregate basis and for management and/or directors of the Parent (to the extent any such persons hold Partnership Units) on an aggregate basis. The Partnership shall also maintain a schedule setting forth (i) the name and address of each Partner, (ii) the number and class of Partnership Units owned by that Partner, and (iii) with respect to each Transfer permitted under this Agreement, the date of the Transfer, the number of Partnership Units Transferred and the identity of the Transferor and Transferee(s) (such schedule, the "**Schedule of Members**"). The Ownership Schedule shall be the definitive record of ownership of each Partnership Unit of the Partnership and all relevant information with respect to each Limited Partner. The Partnership shall be entitled to recognize the exclusive right of a Person registered on its records as the owner of Partnership Units of the Partnership for all purposes and shall not be bound to recognize any equitable or other claim to or interest in Partnership Units on the part of any other Person, whether or not it shall have express or other notice thereof, except as otherwise provided by the Act.



## ARTICLE III

## PURPOSE

Section 3.01. **Purpose and Business**. The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act. Without limiting the foregoing, the Partnership shall have full power and authority to:

(a) enter into, perform, cancel or rescind and carry out contracts of any kind;

(b) borrow and lend money;

(c) issue and guarantee evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien;

(d) directly or indirectly, to originate, acquire or dispose of additional Assets necessary, useful or desirable in connection with its business;

(e) transact business in any state or nation in which the Partnership may lawfully act, for itself or as principal, agent or representative for any Person;

(f) apply for, register, obtain, purchase or otherwise acquire trademarks, trade names, labels and designs relating to or useful in connection with any business of the Partnership, and to use, exercise, develop and license the use of the same;

(g) employ on behalf of the Partnership legal counsel, accountants and other professional advisors with respect to any business of the Partnership;

(h) compromise, submit to arbitration, sue on, and defend claims in favor of or against the Partnership; and

(i) exercise all of the general rights, privileges and powers permitted by the provisions of the Act, as adopted or hereafter amended or supplemented.



Section 3.02. **Powers**.

(a) The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership.

(b) The Partnership may contribute from time to time Partnership capital to one or more newly formed entities solely in exchange for equity interests therein (or in a wholly owned subsidiary entity thereof).

(c) Notwithstanding any other provision in this Agreement, the General Partner may cause the Partnership not to take, or to refrain from taking, any action that, in the judgment of the General Partner, in its sole and absolute discretion could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner, its securities or the Partnership.

Section 3.03. **Partnership Only for Partnership Purposes Specified**. This Agreement shall not be deemed to create a company, venture or partnership between or among the Partners with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in Section 3.01 hereof. Except as otherwise provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, and the Partnership shall not be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.04. **Representations and Warranties by the Parties**.

(a) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) represents and warrants to each other Partner that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Partner will not result in a breach or violation of, or a default under, any material agreement by which such Partner or any of such Partner's property is bound, or any statute, regulation, order or other law to which such Partner is subject and (ii) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms.

(b) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) represents, warrants and agrees that it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances.



(c) The representations and warranties contained in Sections 3.04(a) and 3.04(b) hereof shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

## ARTICLE IV

## CAPITAL CONTRIBUTIONS

Section 4.01. **Capital Contributions of the Partners**. Each Partner has made a Capital Contribution to the Partnership and owns Partnership Units in the amount and designation set forth for such Partner on the Ownership Schedule, as the same may be amended from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges, conversions or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units, or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in Section 4.04, 10.04 or 13.02(c).hereof, the Partners shall have no obligation or right to make any additional Capital Contributions or loans to the Partnership.

Section 4.02. **Classes of Partnership Units**.

(a) The Partnership Interests in the Partnership may be represented by Partnership Units.

(b) On the date hereof, the Partnership has issued three classes of Partnership Units, entitled "Class A OP Units," "Class B OP Units," and "LTIP Units" as set forth in the Ownership Schedule, as the same may be amended from time to time by the General Partner.

Section 4.03. **Issuances of Additional Partnership Interests**.

(a) **General**. The General Partner may cause the Partnership to issue additional Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, all without the consent of any Limited Partner. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units or other securities issued by the Partnership, (ii) for less than fair market value, (iii) in connection with the direct or indirect contribution, conveyance or other transfer of one or more Assets to the Partnership or any Subsidiary of the Partnership if the applicable transfer agreement provides that Persons are to receive Partnership Units in exchange for such Assets, (iv) in exchange for any Capital Contributions of cash or property from any Partners or other Persons and (v) in connection with any merger of any other Person into the Partnership or any Subsidiary of the Partnership if the applicable merger agreement provides that Persons are to receive Partnership Units in exchange for their interests in the Person merging into the Partnership or any Subsidiary of the Partnership. Subject to any restrictions arising under Delaware law, any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties as shall be determined by the General Partner, in its sole and absolute discretion without the consent of any Limited Partner, and set forth in a written document thereafter attached to and made an exhibit to this Agreement which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "**Partnership Unit Designation**"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (b) the right of each such class or series of Partnership Interests to share (on a *pari passu*, junior, preferred or other basis) in Partnership distributions; (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; (d) the voting rights, if any, of each such class or series of Partnership Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests. Upon the issuance of any additional Partnership Interest, the General Partner shall amend the Ownership Schedule as appropriate to reflect such issuance.



(b) **No Preemptive Rights**. Unless the General Partner provides otherwise, no Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

Section 4.04. **Additional Funds and Capital Contributions**.

(a) **General**. The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds ("**Additional Funds**") for the origination or acquisition of additional Assets, for the redemption of Partnership Units or for such other purposes as the General Partner may determine in its sole and absolute discretion. Additional Funds may be obtained by

the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this Section 4.04 without the consent of any Limited Partners.

(b) **Additional Capital Contributions**. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in Section 4.03 above) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

(c) **Loans by Third Parties**. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units; **provided**, **however**, **that** the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).



(d) **Issuance of Securities by Parent**. Parent shall not issue any additional Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities unless Parent contributes directly or indirectly the cash proceeds or other consideration, if any, received from the issuance of such additional Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the Partnership in exchange for (x) in the case of an issuance of Parent Class A Stock, Class A OP Units, (y) in the case of an issuance of Parent Class B Stock, Class B OP Units, or (z) in the case of an issuance of Parent Preferred Stock, Parent Junior Stock or New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Parent Preferred Stock, Parent Junior Stock or New Securities; **provided**, **however**, **that** notwithstanding the foregoing, the Parent may issue Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities (a) pursuant to Section 4.05 or 8.06(b) hereof, (b) pursuant to a dividend or distribution (including any stock split) wholly or partly of Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities to all of the holders of Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities, as the case may be, (c) upon a conversion, redemption or exchange of Parent Preferred Stock, (d) upon a conversion of Parent Junior Stock into Parent Class A Stock, (e) upon a conversion, redemption, exchange or exercise of New Securities, or (f) pursuant to share grants or awards made pursuant to any Equity Incentive Plan of Parent. In the event of any issuance of additional Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities by Parent, and the direct or indirect contribution to the Partnership by Parent of the cash proceeds or other consideration received from such issuance, if any, the Partnership shall pay the Parent's expenses associated with such issuance, including any underwriting discounts or commissions (it being understood that if the proceeds actually received by Parent are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred by Parent in connection with such issuance, then Parent shall be deemed to have made a Capital Contribution to the Partnership in the amount of the gross proceeds of such issuance and the Partnership shall be deemed simultaneously to have reimbursed Parent pursuant to Section 7.04(b) for the amount of such underwriter's discount or other expenses). Nothing in this Agreement shall prohibit the General Partner from issuing Partnership Units for less than fair market value.

Section 4.05. **Equity Incentive Plan**.

(a) **Options Granted**. If at any time or from time to time, in connection with an Equity Incentive Plan, a stock option granted for Parent Class A Stock is duly exercised:

(i) The General Partner shall, as soon as practicable after such exercise, make or cause to be made directly or indirectly a Capital Contribution to the Partnership in an amount equal to the exercise price paid to Parent by such exercising party in connection with the exercise of such stock option.

(ii) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.05(a)(i) hereof, Parent shall be deemed to have contributed directly or indirectly to the Partnership, as a Capital Contribution, in consideration of an additional Class A OP Unit, an amount equal to the Value of a Parent Class A Stock as of the date of exercise multiplied by the number of shares of Parent Class A Stock then being issued in connection with the exercise of such stock option.

(iii) An equitable Percentage Interest adjustment shall be made in which the General Partner shall be treated as having made a cash contribution equal to the amount described in Section 4.05(a)(ii) hereof.

(b) **Special Valuation Rule**. For purposes of this Section 4.05, in determining the Value of a Parent Class A Stock, only the trading date immediately preceding the exercise of the relevant stock option under the Equity Incentive Plan shall be considered.

(c) **Future Equity Incentive Plans**. Nothing in this Agreement shall be construed or applied to preclude or restrain Parent or the General Partner on behalf of the Partnership from adopting, modifying or terminating any Equity Incentive Plan, for the benefit of employees, directors or other business associates of Parent, the Partnership or any of their Affiliates, in each case with the approval of the board of directors or compensation committee of Parent. The Limited Partners acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by Parent or the General Partner on behalf of the Partnership in accordance with this Agreement, amendments to this Section 4.05 may become necessary or advisable and that any approval or consent of the Limited Partners required pursuant to the terms of this Agreement in order to effect any such amendments requested by the General Partner shall not be unreasonably withheld or delayed.

Section 4.06. **LTIP Units**.

(a) **Issuance of LTIP Units**. The General Partner may from time to time issue LTIP Units, in one or more classes or series established in accordance with Section 4.03, to Persons who provide services to or for the benefit of the Partnership, Parent, the General Partner or their Affiliates, for such consideration as the General Partner may determine to be appropriate, and admit such Persons as Limited Partners. Any provision herein relating to LTIP Units or LTIP Unitholders may be varied by the provisions applicable to an individual class or series of LTIP Units. The Partnership shall maintain at all times a one-to-one correspondence between LTIP Units and Class A OP Units for conversion, distribution and other purposes, including without limitation complying with the following procedures:

(i) If an Adjustment Event (as defined below) occurs, then the General Partner shall make a corresponding adjustment to the LTIP Units to maintain a one-for-one conversion and economic equivalence ratio between Class A OP Units and LTIP Units. "**Adjustment Event**" means each of the following: the Partnership (a) declares or pays a distribution on its outstanding Class A OP Units payable in Class A OP Units, (b) splits or subdivides its outstanding Class A OP Units into a greater number of Class A OP Units or (c) effects a reverse unit split or otherwise combines its outstanding Class A OP Units into a smaller number of Units, or (d) issues any Partnership Units in exchange for its outstanding Class A OP Units by way of a reclassification or recapitalization of its Class A OP Units. If more than one Adjustment Event occurs, the adjustment to the LTIP Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. For the avoidance of doubt, the following shall not be Adjustment Events: (x) the issuance of Partnership Units in a financing, reorganization, acquisition or other similar business transaction, (y) the issuance of Partnership Units pursuant to any employee benefit or compensation plan or distribution reinvestment plan, or (z) the issuance of any Partnership Units to the General Partner in respect of a Capital Contribution to the Partnership of proceeds from the sale of securities by the General Partner. If the Partnership takes an action affecting the Class A OP Units other than actions specifically described above as "Adjustment Events" and in the opinion of the General Partner such action would require an adjustment to the LTIP Units to maintain the one-to-one correspondence described above, the General Partner shall have the right to make such adjustment to the LTIP Units, to the extent permitted by law and by any Equity Incentive Plan, in such manner and at such time as the General Partner, in its sole discretion, may determine to be appropriate under the circumstances. If an adjustment is made to the LTIP Units as herein provided, the Partnership shall promptly file in the books and records of the Partnership an officer's certificate setting forth such adjustment and a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing such certificate, the Partnership shall mail a notice to each LTIP Unitholder setting forth the adjustment; and



(ii) Notwithstanding any other provision of this Agreement, unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, (A) a holder of a Parity LTIP Unit shall be entitled to receive the same distributions as a holder of a Class A OP Unit; and (B) a holder of any LTIP Unit that is

not a Parity LTIP Unit shall be entitled to receive the same distributions as a holder of a Class A OP Unit, except that such holder shall be entitled to receive liquidating distributions made pursuant to Section 13.02 hereof only to the extent of the holder's Capital Account balance associated with such LTIP Unit (determined after giving effect to all contributions, allocations and distributions for all taxable years, including the year during which such liquidation occurs (but, for avoidance of doubt, determined without taking into account liquidating distributions made pursuant to Section 13.02)).

(b) **Priority**. Immediately prior to any liquidation, dissolution or winding up of the Partnership, the General Partner shall exercise its right to cause a Forced Conversion with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the liquidation, dissolution or winding up, at a value determined by the General Partner in good faith using the value attributed to the OP Units in the context of the liquidation, dissolution or winding up (in which case the Conversion Date shall be the effective date of the liquidation, dissolution or winding up). As to the distribution of assets upon liquidation, dissolution or winding up, any class or series of Partnership Units which by its terms specifies that it shall rank junior to, on a parity with, or senior to the Class A OP Units shall also rank junior to, or *pari passu* with, or senior to, as the case may be, the LTIP Units.

(c) **Special Provisions**. LTIP Units shall be subject to the following special provisions:

(i) **Vesting Agreements**. LTIP Units may, in the sole discretion of the General Partner, be issued subject to vesting, forfeiture and additional restrictions on transfer pursuant to the terms of a Vesting Agreement. The terms of any Vesting Agreement may be modified by the General Partner from time to time in its sole discretion, subject to any restrictions on amendment imposed by the relevant Vesting Agreement or by the Equity Incentive Plan, if applicable. LTIP Units that have vested, with respect to both time and performance criteria, to the extent applicable, under the terms of a Vesting Agreement are referred to as "**Vested LTIP Units**"; all other LTIP Units shall be referred to as "**Unvested Incentive Units**."



(ii) **Forfeiture**. Unless otherwise specified in the Vesting Agreement, upon the occurrence of any event specified in a Vesting Agreement that results in either the right of the Partnership or the General Partner to repurchase LTIP Units at a specified purchase price or to cause a forfeiture of any LTIP Units, then if the Partnership or the General Partner exercises such right in accordance with the applicable Vesting Agreement, the relevant LTIP Units shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the Vesting Agreement, no consideration or other payment shall be due with respect to any LTIP Units that have been forfeited, other than any distributions declared with respect to a Partnership Record Date prior to the effective date of the forfeiture. In connection with any repurchase or forfeiture of LTIP Units, the balance of the portion of the Capital Account of the LTIP Unitholder that is attributable to all of his or her LTIP Units shall be reduced by the amount, if any, by which it exceeds the Target Balance contemplated by Section 6.03(d), calculated with respect to the LTIP Unitholder's remaining LTIP Units, if any.

(iii) **Redemption**. The Redemption right provided to Partners under Section 8.06 shall not apply with respect to LTIP Units unless and until they are converted to Class A OP Units as provided in clause (v) below and Section 4.07.

(iv) **Allocations**. LTIP Unitholders shall be entitled to certain special allocations of gain under Section 6.03(c).

(v) **Conversion to OP Units**. Only an LTIP Unit that is both a Vested LTIP Unit and a Parity LTIP Unit (a "**Vested Parity LTIP Unit**") is eligible to be converted into a Class A OP Unit under Section 4.07.

(d) **Voting**. Except in accordance with Section 7.03(d) and unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, (i) a holder of Vested Parity LTIP Units shall have the same voting rights as a holder of Class A OP Units, with the Vested Parity LTIP Units voting as a single class with the Class A OP Units and having one vote per Vested Parity LTIP Unit; and (ii) all other LTIP Unitholders shall not be entitled to any voting rights.

Section 4.07. **Conversion of LTIP Units**.

(a) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, subject to Section 4.07(b), an LTIP Unitholder shall have the right (the "**Conversion Right**"), at his or her option, at any time to convert all or a portion of his or her Vested Parity LTIP Units into Class A OP Units; **provided**, **however**, **that** a holder may not exercise the Conversion Right for less than 100 Vested Parity LTIP Units or, if such holder holds less than 100 Vested Parity LTIP Units, all of the Vested Parity LTIP Units held by such holder. LTIP Unitholders shall not have the right to convert Unvested Incentive Units into Class A OP Units until they become Vested Parity LTIP Units; **provided**, **however**, **that** when an LTIP Unitholder is notified of the expected occurrence of an event that will cause his or her Unvested Incentive Units to become Vested Parity LTIP Units, such LTIP Unitholder may give the Partnership a Conversion Notice conditioned upon and effective as of the time of such event and such Conversion Notice, unless subsequently revoked by the LTIP Unitholder, shall be accepted by the Partnership subject to such condition. The General Partner shall have the right at any time to cause a conversion of Vested Parity LTIP Units into Class A OP Units. In all cases, the conversion of any LTIP Units into Class A OP Units shall be subject to the conditions and procedures set forth in this Section 4.07.



(b) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, a holder of Vested Parity LTIP Units may convert such Units into an equal number of fully paid and nonassessable Class A OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.06(a). Notwithstanding the foregoing, in no event may a holder of Vested Parity LTIP Units convert a number of Vested Parity LTIP Units that exceeds (x) the Economic Capital Account Balance of such Limited Partner, to the extent attributable to its ownership of such Vested Parity LTIP Units, divided by (y) the Class A OP Unit Economic Balance, in each case as determined as of the effective date of conversion (the "**Capital Account Limitation**"). In order to exercise his or her Conversion Right, an LTIP Unitholder shall deliver a notice (a "**Conversion Notice**") in the form attached as Exhibit B to this Agreement (with a copy to the General Partner) not less than ten nor more than 60 days prior to a date (the "**Conversion Date**") specified in such Conversion Notice; **provided**, **however**, **that** if the General Partner has not given to the LTIP Unitholders notice of a proposed or upcoming Transaction (as defined below in Section 4.07(e)) at least 30 days prior to the effective date of such Transaction, then LTIP Unitholders shall have the right to deliver a Conversion Notice until the later of (x) the 10th day after such notice from the General Partner of a Transaction or (y) the third business day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner set forth in Section 15.01. Each LTIP Unitholder covenants and agrees with the Partnership that all Vested Parity LTIP Units to be converted pursuant to this Section 4.07(b) shall be free and clear of all liens. Notwithstanding anything herein to the contrary, a holder of LTIP Units may deliver a Notice of Redemption pursuant to Section 8.06 of this Agreement relating to those Class A OP Units that will be issued to such holder upon conversion of such LTIP Units into Class A OP Units in advance of the Conversion Date; **provided**, **however**, **that** the redemption of such Class A OP Units by the Partnership shall in no event take place until after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put an LTIP Unitholder following the effective date in a position where, if he or she so wishes, the Class A OP Units into which his or her Vested Parity LTIP Units will be converted can be redeemed by the Partnership simultaneously with such conversion, with the further consequence that, if the General Partner elects to assume the Partnership's redemption obligation with respect to such Class A OP Units under Section 8.06(b) of this Agreement by delivering to such holder Parent Class A Stock rather than cash, then such holder can have such Parent Class A Stock issued to him or her simultaneously with the conversion of his or her Vested Parity LTIP Units into Class A OP Units. The General Partner shall reasonably cooperate with an LTIP Unitholder to coordinate the timing of the different events described in the foregoing sentence.



(c) The Partnership, at any time at the election of the General Partner, may cause any number of Vested Parity LTIP Units held by an LTIP Unitholder to be converted (a "**Forced Conversion**") into an equal number of Class A OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.06(a); **provided**, **however**, **that** the Partnership may not cause a Forced Conversion of any Vested Parity LTIP Units that would not at the time be eligible for conversion at the option of such LTIP Unitholder pursuant to Section 4.07(b). In order to exercise its right of Forced Conversion, the Partnership shall deliver a notice (a "**Forced Conversion Notice**") in the form attached to this Agreement as Exhibit C to the applicable LTIP Unitholder not less than ten nor more than 60 days prior to the Conversion Date specified in such Forced Conversion Notice. A Forced Conversion Notice shall be provided in the manner set forth in Section 15.01.

(d) A conversion of Vested Parity LTIP Units for which the holder thereof has given a Conversion Notice or the Partnership has given a Forced Conversion Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such LTIP Unitholder, as of which time such LTIP Unitholder shall be credited on the books and records of the Partnership with the issuance as of the opening of business on the next day of the number of Class A OP Units issuable upon such conversion. After the conversion of LTIP Units as aforesaid, the Partnership shall deliver to such LTIP Unitholder, upon his or her written request, confirmation of the number of Class A OP Units and remaining LTIP Units, if any, held by such person immediately after such conversion.

(e) If the Partnership or the General Partner shall be a party to any transaction (including without limitation a merger, consolidation, unit exchange, self tender offer for all or substantially all Class A OP Units or other business combination or reorganization, or sale of all or substantially all of the Partnership's assets, but excluding any transaction which constitutes an Adjustment Event) in each case as a result of which Class A OP Units shall be exchanged for or converted into the right, or the holders of such Units shall otherwise be entitled, to receive cash, securities or other property or any combination thereof (any of the foregoing being referred to herein as a "**Transaction**"), then the General Partner shall, immediately prior to the Transaction, exercise its right to cause a Forced Conversion with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Partnership were sold at the Transaction price or, if applicable, at a value determined by the General Partner in good faith using the value attributed to the Partnership Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction).

In anticipation of such Forced Conversion and the consummation of the Transaction, the Partnership shall use commercially reasonable efforts to cause each LTIP Unitholder to be afforded the right to receive in connection with such Transaction in consideration for the Class A OP Units into which his or her LTIP Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a holder of the same number of Class A OP Units, assuming such holder of Class A OP Units is not a constituent party to such merger or consolidation or the acquiring party in any such Transaction (a "**Constituent Person**"), or an Affiliate of a Constituent Person. In the event that holders of Class A OP Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction the General Partner shall give prompt written notice to each LTIP Unitholder of such election, and shall use commercially reasonable efforts to afford the LTIP Unitholders the right to elect, by written notice to the General Partner, the form or type of consideration to be received upon conversion of each LTIP Unit held by such holder into Class A OP Units in connection with such Transaction. If an LTIP Unitholder fails to make such an election, such holder (and any of its transferees) shall receive upon conversion of each LTIP Unit held by him or her (or by any of his or her transferees) the same kind and amount of consideration that a holder of an Class A OP Unit would receive if such Class A OP Unitholder failed to make such an election.



Subject to the rights of the Partnership and the General Partner under any Vesting Agreement and any Equity Incentive Plan, the Partnership shall use commercially reasonable efforts to cause the terms of any Transaction to be consistent with the provisions of this Section 4.07(e) and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any LTIP Unitholders if less than all of the LTIP Units held by such LTIP Unitholder will be converted into Class A OP Units in connection with the Transaction that will (i) contain provisions enabling the holders of LTIP Units that remain outstanding after such Transaction to convert their LTIP Units into securities as comparable as reasonably possible under the circumstances to Class A OP Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in this Agreement for the benefit of the LTIP Unitholders.

Section 4.08. **Characterization as Profits Interests**. Any LTIP Units to be issued under this Agreement are intended to qualify as "profits interests" under IRS Revenue Procedures 93-27, 1993-2 C.B. 343 and 2001-43, 2001-2 C.B. 191, and the sections of this Agreement relating to such interests shall be interpreted and applied consistently therewith. In connection with the foregoing, an LTIP Unit shall have a deemed liquidation value at time of grant equal to $0.00. Distributions in respect of an LTIP Unit pursuant to Sections 5.01 and 13.02 shall be limited to the extent necessary so that each LTIP Unit qualifies as a "profits interest" under Rev. Proc. 93-27 and Rev. Proc. 2001-43, 2001-2 C.B. 191, and this Agreement shall be interpreted accordingly. In the event that distributions in respect of an LTIP Unit pursuant to Sections 5.01 and 13.02 hereof are limited under this Section 4.08 as a result of the preceding sentence, the Partnership shall adjust future distributions in respect of the LTIP Units pursuant to Sections 5.01 and 13.02, as promptly as practicable but in a manner that is consistent with the first sentence of this paragraph so that, after such adjustments are made, each holder of an LTIP Unit receives, to the maximum extent possible, an amount of distributions equal to the amount of distributions would have been made in respect of the LTIP Unit were such sentence not part of this Agreement. In accordance with Rev. Proc. 2001-43,

2001-2 C.B. 191, the General Partner shall treat a Partner holding an LTIP Unit as the owner of such LTIP Unit from the date it is granted, and shall file the Partnership's IRS Form 1065, and issue appropriate Schedules K-1 (or the equivalent, if the Partnership is not required to file IRS Form 1065) to such Partner, allocating to the Partner its distributive share of all items of income, gain, loss, deduction and credit associated with such LTIP Unit as if it were fully vested. Each Partner agrees to take into account such distributive share in computing its US federal income tax liability for the entire period during which it holds such LTIP Unit. The Partnership and each Partner agree not to claim a deduction (as wages, compensation or otherwise) with respect to any LTIP Unit issued by the Partnership, either at the time of grant of such LTIP Unit or at the time it becomes substantially vested. The undertakings contained in this paragraph shall be construed in accordance with Section 4 of Rev. Proc. 2001-43. The provisions of this Section 4.08 shall apply regardless of whether or not a holder of an LTIP Unit files an election pursuant to Section 83(b) of the Code. In addition, the General Partner is hereby authorized upon publication of final Regulations in the Federal Register (or other official pronouncement), to amend this Agreement as it determines, in its sole discretion, to provide for: (i) the election of a safe harbor under final Regulations similar to proposed Regulation Section 1.83-3(1) (or any similar provision) under which the fair market value of any LTIP Units that are transferred in connection with the performance of services are treated as being equal to the liquidation value of such Partnership Interests, (ii) an agreement by the Partnership to comply with all the requirements set forth in such regulations and Notice 2005-43 (and any other guidance provided by the IRS with respect to such election) with respect to all LTIP Units transferred in connection with the performance of services while the election remains effective, (iii) the allocation of items of income, gains, deductions, and losses required by any final Regulations similar to proposed Regulations Sections 1.704-1(b)(4)(xii)(b) and (c), and (iv) any other related amendments. The Partners acknowledge and agree that the exercise by the General Partner of any discretion provided to it hereunder shall not be a modification or amendment to this Agreement. In addition, the General Partner may retain such advisors, or take such other steps, from time to time as it deems necessary in its good-faith but sole discretion to determine the fair market values of the Partnership's assets and liabilities for purposes of applying this Sections 4.07, 4.08 and 6.03(c).



Section 4.09. **No Interest; No Return**. No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.10. **Other Contribution Provisions**. In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, unless otherwise determined by the General Partner in its sole and absolute discretion, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash to the capital of the Partnership. In addition, with the consent of the General Partner, one or more Limited Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership.

Section 4.11. **No Third Party Beneficiary**. No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners without such Partner's consent. In addition, it is the intent of the parties hereto that no distribution to any Limited Partner shall be deemed a return of money or other property in violation of the Act. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Limited Partner is obligated to return such money or property, such obligation shall be the obligation of such Limited Partner and not of the General Partner. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.



## ARTICLE V

## DISTRIBUTIONS

Section 5.01. **Requirement and Characterization of Distributions**. Subject to the terms of any Partnership Unit Designation, the General Partner may cause the Partnership to distribute at least quarterly all, or such portion as the General Partner may in its sole and absolute discretion determine, Available Cash generated by the Partnership during such quarter to the Holders of Partnership Units on such Partnership Record Date with respect to such quarter: (1) first, with respect to any Preferred Units or other Partnership Interests that are entitled to any preference in distribution, in accordance with the rights of such class or classes of Partnership Interests (and, within such class or classes, pro rata in proportion to the respective Percentage Interests on such Partnership Record Date), (2) second, with respect to any OP Units that are not entitled to any preference in distribution, in accordance with the rights of such class of Partnership Interests (and, within such class, pro rata in proportion to the respective Percentage Interests on such Partnership Record Date) and (3) third, with respect to any Junior Units. To the extent any distribution is made in the second step above with respect to OP Units (during any period in which both Class A OP Units and Class B OP Units are outstanding), the distribution to the holders of Class A OP Units and Class B OP Units shall be made such that the distribution per Class B OP Unit is equal to 2%, or $1/50^{th}$, of the distribution per Class A OP Unit, subject to adjustment as determined to be appropriate in the discretion of the General Partner under the circumstances, in order to maintain the economic substance of the above distribution ratio between the Class A OP Units and Class B OP Units, and subject to further adjustment as determined to be appropriate in the discretion of the General Partner so that the relative distribution rights of the Class A OP Units and the Class B OP Units correlate with the relative distribution rights of the Parent Class A Stock and the Parent Class B Stock. At the election of the General Partner, distributions payable with respect to any Partnership Units that were not outstanding during the entire quarterly period in respect of which any distribution is made may be prorated based on the portion of the period that such Partnership Units were outstanding.

Section 5.02. **Distributions In-Kind**. No right is given to any Partner to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in-kind of Partnership assets to the Partners, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles V, VI and X hereof.

Section 5.03. **Distributions to Reflect Issuance of Additional Partnership Units**. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article IV hereof, the General Partner may make such revisions to this Article V as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to certain classes of Partnership Units.

Section 5.04. **Restricted Distributions**. Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Partner on account of its Partnership Interest or interest in Partnership Units if such distribution would violate Section 17-607 of the Act or other applicable law.



## ARTICLE VI

## ALLOCATIONS

Section 6.01. **Timing and Amount of Allocations of Net Income and Net Loss**. Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year of the Partnership as of the end of each such year. Except as otherwise provided in this Article VI, and subject to Section 11.06(c) hereof, an allocation to a Partner of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.02. **General Allocations**. After giving effect to the allocations under Section 6.03, Net Income and Net Loss (and, to the extent determined by the General Partner to be necessary and appropriate to achieve the resulting Capital Account balances described below, any allocable items of income, gain, loss, deduction or credit includable in the computation of Net Income and Net Loss) for each Partnership Year or other applicable period shall be allocated among the Partners in a manner such that, after giving effect to the special allocations set forth in Section 6.03 and all distributions through the end of such period, the Capital Account balance of each Partner, immediately after making such allocation, is, as nearly as possible, equal to (i) the amount such Partner would receive pursuant to Section 13.02 if all assets of the Partnership on hand at the end of such period were sold for cash equal to their Gross Asset Values, all liabilities of the Partnership were satisfied in cash in accordance with their terms (limited with respect to each nonrecourse liability

to the Gross Asset Value of the assets securing such liability), and all remaining or resulting cash was distributed, in accordance with Section 13.02, to the Partners immediately after making such allocation, minus (ii) such Partner's share of Partnership Minimum Gain and Partner Minimum Gain, computed immediately prior to the hypothetical sale of assets, and the amount any such Partner is treated as obligated to contribute to the Partnership, computed immediately after the hypothetical sale of assets.

Section 6.03. **Additional Allocation Provisions**. Notwithstanding the foregoing provisions of this Article VI:

(a) **Regulatory Allocations**.

(i) **Minimum Gain Chargeback**. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.02 hereof, or any other provision of this Article VI, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Partner shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.03(a)(i) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.



(ii) **Partner Minimum Gain Chargeback**. Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.03(a)(i) hereof, if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Year, each Partner who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each General Partner, Limited Partner and other Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.03(a)(ii) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) **Nonrecourse Deductions and Partner Nonrecourse Deductions**. Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the holders of Class A OP Units and Class B OP Units pro rata in accordance with their relative entitlements to distributions under Section 5.01. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holder(s) who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) **Qualified Income Offset**. If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Partnership income and gain shall be allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible. It is intended that this Section 6.03(a)(iv) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(v) **Gross Income Allocation**. In the event that any Holder has an Adjusted Capital Account Deficit at the end of any Partnership Year, each such Holder shall be specially allocated items of Partnership income and gain in the amount of such excess to eliminate such deficit as quickly as possible.

(vi) **Section 754 Adjustment**. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their Partnership Units in the event that

Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holders to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.



(vii) **Curative Allocations**. The allocations set forth in Sections 6.03(a)(i), (ii), (iii), (iv), (v), and (vi) hereof (the "**Regulatory Allocations**") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Section 6.01 hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders of Partnership Units so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and the Regulatory Allocations to each Holder of a Partnership Unit shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

(b) **Allocation of Excess Nonrecourse Liabilities**. The Partnership shall allocate "nonrecourse liabilities" (within the meaning of Regulations Section 1.752-1(a)(2)) of the Partnership that are secured by multiple Assets under any reasonable method chosen by the General Partner in accordance with Regulations Section 1.752-3(a)(3) and (b). The Partnership shall allocate "excess nonrecourse liabilities" of the Partnership under any method approved under Regulations Section 1.752-3(a)(3) as chosen by the General Partner.

(c) **Special Allocations Regarding LTIP Units**. Notwithstanding the provisions of Section 6.02 above, Liquidating Gains that would, but for this Section 6.03(d), be allocated to holders of OP Units with respect to such units shall first be allocated to the LTIP Unitholders until the Economic Capital Account Balances of such LTIP Unitholders, to the extent attributable to their ownership of LTIP Units, are equal to (i) the Class A OP Unit Economic Balance, multiplied by (ii) the number of their LTIP Units (the "**Target Balance**"). For this purpose, "**Liquidating Gains**" means net capital gains realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital gain realized in connection with an adjustment to the Gross Asset Value of Partnership assets under Code Section 704(b). The "**Economic Capital Account Balances**" of the LTIP Unitholders will be equal to their Capital Account balances to the extent attributable to their ownership of LTIP Units, plus the amount of their allocable share of any Partner Minimum Gain or Partnership Minimum Gain attributable to such LTIP Units. Similarly, the "**Class A OP Unit Economic Balance**" shall mean (i) the Capital Account balance of the holders of Class A OP Units, plus the amount of such holders' share of any Partner Minimum Gain or Partnership Minimum Gain, in either case to the extent attributable to the ownership of Class A OP Units by such holders and computed on a hypothetical basis after taking into account all allocations through the date on which any allocation is made under this Section 6.03(c) (including, without limitation, any expenses of the Partnership reimbursed to the General Partner pursuant to Section 7.04(b)), divided by (ii) the number of Class A OP Units outstanding. Any such allocations shall be made among the LTIP Unitholders first to the LTIP Units with the earliest issuance date until such LTIP Units have reached the Target Balance, and then to the LTIP Units with the next earliest issuance date, and so forth. The parties agree that the intent of this Section 6.03(c) is (i) to make the Capital Account balance associated with each LTIP Unit economically equivalent to the Capital Account balance associated with the Class A OP Units (on a per-Class A OP Unit/LTIP Unit basis) and (ii) to allow conversion of an LTIP Unit (assuming prior vesting) into a Class A OP Unit when sufficient Liquidating Gains have been allocated to such LTIP Unit pursuant to Section 6.02 so that the parity described in the definition of Target Balance has been achieved. Liquidating Gain allocated to an LTIP Unitholder under this Section 6.03(d) will be attributed to specific LTIP Units in a manner that causes the maximum number of Vested LTIP Units to have an Economic Capital Account Balance attributable to such LTIP Units equal to the Class A OP Unit Economic Balance, and any remaining Liquidating Gains allocated to a LTIP Unitholder shall be allocated pro rata among such holder's Unvested Incentive Units. Any LTIP Unit that has been allocated Liquidating Gain pursuant to this Section 6.03(c) such that the Economic Capital Account Balance attributable to such LTIP Unit is equal to the Class A OP Unit Economic Balance immediately after such allocation is referred to as a "**Parity LTIP Unit**."



(d) **Qualified Opportunity Zone Rules**.

(i) The Partnership and PHC LLC (or the relevant partnership subsidiary of PHC LLC, as applicable) (the "**QOF Partner**") agree to treat the Contributions of the Contributed QOF Interests (as such term is defined in the Contribution

Agreement) as a transaction governed by Section 721(a) of the Code and, as such, not constituting an "inclusion event" within the meaning of Section 1400Z-2(b)(1) of the Code and the accompanying Treasury Regulations. With respect to the Contributed QOF Interests, the Partnership agrees that it will become subject to Section 1400Z-2 and the accompanying Treasury Regulations with respect to the eligible gain associated with the Contributed QOF Interests. Pursuant to Treasury Regulations Section 1.1400Z2(b)-1(c)(6)(ii)(B), (x) the Partnership agrees to allocate and report the remaining deferred gain that is associated with the Contributed QOF Interests to the QOF Partner and (y) the Partnership agrees to allocate the basis increases described in Section 1400Z-2(b)(2)(B)(iii) and (iv) to the QOF Partner.

(ii) The Partnership and the QOF Partner agree to cooperate with each other to provide information and to take any such other action as is reasonably necessary for such party to comply with its obligations under Section 1400Z-1, Section 1400Z-2 and the accompanying Treasury Regulations, revenue rulings and other guidance presently existing or promulgated, issued or otherwise provided from time to time by the Treasury Department and/or the IRS thereunder or with respect thereto in the future, as well as any applicable state law requirements with respect thereto.

Section 6.04. **Tax Allocations**.

(a) **In General**. Except as otherwise provided in this Section 6.04, for income tax purposes under the Code and the Regulations each Partnership item of income, gain, loss and deduction (collectively, "**Tax Items**") shall be allocated among the Holders of Partnership Units in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Sections 6.02 and 6.03 hereof.



(b) **Allocations Respecting Section 704(c) Revaluations**. Notwithstanding Section 6.04(a) hereof, Tax Items with respect to Assets that are contributed to the Partnership with a Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Partners for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Partnership shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner provided that the “traditional method” shall be adopted in connection with the assets contributed pursuant to the Contributions. In the event that the Gross Asset Value of any partnership asset is adjusted pursuant to subsection (b) of the definition of "**Gross Asset Value**" (provided in Article I hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations or under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner, including the aggregation methods applicable to securities partnerships, to the extent applicable and to the extent the General Partner decides to apply such methods.

## ARTICLE VII

## MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.01. **Management**.

(a) Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not be removed by the Limited Partners, except with the consent of the General Partner. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof, including Section 7.03, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in Section 3.02 hereof and to effectuate the purposes set forth in Section 3.01 hereof, including, without limitation:

(i) the making of any expenditures, the lending or borrowing of money including, without limitation, making prepayments on loans and borrowing money or selling assets to permit the Partnership to make distributions to its Partners, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness

(including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations that it deems necessary for the conduct of the activities of the Partnership;

(ii) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership, the registration of any class of securities of the Partnership under the Exchange Act and the listing of any debt securities of the Partnership on any exchange;

(iii) subject to Section 11.02 hereof, the acquisition, sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;



(iv) the mortgage, pledge, encumbrance, securitization, preferred equity financing or hypothecation of any assets of the Partnership, the use of the assets of the Partnership (including, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that it sees fit, including, without limitation, the financing of the operations and activities of Parent, the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, the Partnership's Subsidiaries) and the repayment of obligations of the Partnership, its Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership's Subsidiaries;

(v) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms it sees fit, including, without limitation, the financing of the conduct of the operations of Parent, the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, Parent, the General Partner and its Subsidiaries and the Partnership's Subsidiaries) and the repayment of obligations of the Partnership and its Subsidiaries and any other Person in which the Partnership has an equity investment and the making of capital contributions to its Subsidiaries;

(vi) the underwriting, origination, structuring and acquisition of any loan, note, bond or other Debt to any Person;

(vii) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Asset, whether pursuant to a Services Agreement or otherwise;

(viii) the negotiation, execution and performance of any contracts, or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with authorities and municipalities, consultants, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;

(ix) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership and the collection and receipt of revenues, rents and income of the Partnership;

(x) the maintenance of such insurance for the benefit of the Partnership and the Partners as the General Partner deems necessary or appropriate, including, without limitation, (i) casualty, liability and other insurance on the Assets and (ii) liability insurance for the Indemnitees hereunder;



(xi) the formation of, or acquisition of an interest in, and the contribution of Assets to, any further limited or general partnerships, limited liability companies, trusts, joint ventures or other relationships that the General Partner deems

desirable (including the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which it has an equity investment from time to time);

(xii) the filing of applications, communicating and otherwise dealing with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any other aspect of the Partnership business;

(xiii) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(xiv) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(xv) except as otherwise specifically set forth in this Agreement, the determination of the fair market value of any Partnership property distributed in-kind using such reasonable method of valuation as it may adopt; **provided**, **that** such methods are otherwise consistent with the requirements of this Agreement;

(xvi) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(xvii) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power-of-attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

(xviii) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(xix) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(xx) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure Debt, mortgages, deeds of trust, other trust arrangements, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;



(xxi) the issuance of additional Partnership Units, as appropriate and in the General Partner's sole and absolute discretion, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article IV hereof;

(xxii) the selection and dismissal of employees (including, without limitation, employees having titles or offices such as president, vice president, secretary and treasurer), and agents, outside attorneys, accountants, consultants and contractors of the Partnership or the General Partner, the determination of their compensation and other terms of employment or hiring and the delegation to any such employees the authority to conduct the business of the Partnership in accordance with the terms of this Agreement;

(xxiii) the distribution of cash to acquire Partnership Units held by a Partner in connection with a Partner's exercise of its Redemption right under Section 8.06 hereof;

(xxiv) maintaining or causing to be maintained (including through the appointment of a Transfer Agent), the book and records of the Partnership;

(xxv) the amendment and restatement of the Ownership Schedule hereto to reflect accurately at all times the Capital Contributions and Percentage Interests of the Partners as the same are adjusted from time to time to the extent necessary to reflect redemptions, Capital Contributions, the issuance of Partnership Units, the admission of any Additional Limited Partner or any Substituted Limited Partner or otherwise, which amendment and restatement, notwithstanding anything in this Agreement to the contrary, shall not be deemed an amendment to this Agreement, as long as the matter or event being reflected in the Ownership Schedule hereto otherwise is authorized by this Agreement;

(xxvi) the determination regarding whether a payment to a Partner who exercises its Redemption Right under Section 8.06 that is assumed by the Parent will be paid in the form of the Cash Amount or the Parent Class A Stock Amount, except as such determination may be limited by Section 8.06;

(xxvii) the collection and receipt of revenues and income of the Partnership;

(xxviii) the registration of any class of securities of the Partnership under the Securities Act or the Exchange Act, and the listing of any debt securities of the Partnership on any exchange; and

(xxix) an election to dissolve the Partnership pursuant to Section 13.01(b) hereof, subject to the written consent of a Majority in Interest of the Class A OP Units.



(b) Each of the Limited Partners agrees that, except as provided in Section 7.03 hereof, the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation.

(c) At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

Section 7.02. **Certificate of Limited Partnership**. To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Except as otherwise required under the Act, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

Section 7.03. **Restrictions on General Partner's Authority**.

(a) The General Partner may not take any action in contravention of an express prohibition or limitation of this Agreement without the written consent of a Majority in Interest of the Class A OP Units and may not perform any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided herein or under the Act.

(b) The General Partner shall not, without the written consent of a Majority in Interest of the Class A OP Units, terminate this Agreement or liquidate or dissolve the Partnership or merge the Partnership or otherwise combine the Partnership or substantially all of its assets with another entity that is classified as a corporation for federal or applicable state and local income tax purposes.

(c) Notwithstanding Section 7.03(a) and (b), the General Partner shall have the exclusive power to make the amendments set forth in Section 14.02(b) without the consent of, or prior notice to, any Holder.

(d) Notwithstanding Sections 7.03(a) and (b) and Section 14.02(b) hereof, this Agreement shall not be amended, and no action may be taken by the General Partner, without the consent of each Partner adversely affected thereby, if such amendment or action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), (ii) modify the limited liability of a Limited Partner or (iii) amend this Section 7.03(d). Further, no amendment may alter the restrictions on the General Partner's authority set forth elsewhere in Section 7.03 or otherwise in this Agreement without the consent specified therein. Any such amendment or action consented to by any Partner shall be effective as to that Partner, notwithstanding the absence of such consent by any other Partner.



(e) To the extent the assets of the Partnership constitute "plan assets" for purposes of ERISA, the General Partner shall, as applicable, administer the Partnership subject to the requirements of ERISA.

Section 7.04. **Reimbursement of the Parent and General Partner**.

(a) Except as provided in this Section 7.04 and elsewhere in this Agreement (including the provisions of Articles V and VI regarding distributions, payments and allocations to which it may be entitled), neither the Parent nor the General Partner shall be compensated for the General Partner's services as general partner of the Partnership.

(b) The Partnership shall be responsible for and shall pay the Parent's and the General Partner's administrative costs and expenses, and such expenses will be treated as expenses of the Partnership. Such expenses will include:

(i) all expenses relating to the Parent's and the General Partner's formation and continuity of existence;

(ii) all expenses relating to any offerings and registrations of securities;

(iii) all expenses associated with the Parent's and the General Partner's preparation and filing of any periodic reports under federal, state or local laws or regulations;

(iv) all expenses associated with the Parent's and the General Partner's compliance with applicable laws, rules and regulations; and

(v) all other operating or administrative costs of the Parent's and General Partner's incurred in the ordinary course of its business.

(c) The Parent and General Partner are each hereby authorized to pay compensation for accounting, administrative, legal, technical, management and other services rendered to the Partnership. Except to the extent provided in this Agreement, Parent, the General Partner and, if applicable, their Affiliates shall be reimbursed on a monthly basis, or such other basis as the Parent and General Partner may determine in their sole and absolute discretion, for all expenses that Parent, the General Partner and, if applicable, their Affiliates incur relating to the ownership and operation of, or for the benefit of, the Partnership (including, without limitation, administrative expenses); **provided**, **that** the amount of any such reimbursement shall be reduced by any interest earned by Parent or the General Partner with respect to bank accounts or other instruments or accounts held by such entity on behalf of the Partnership. The Partners acknowledge that all such expenses of the Parent and General Partner are deemed to be for the benefit of the Partnership. Such reimbursement shall be in addition to any reimbursement made as a result of indemnification pursuant to Section 7.07 hereof. In the event that certain expenses are incurred for the benefit of the Partnership and other entities (including Parent and the General Partner), such expenses will be allocated to the Partnership and such other entities in such a manner as Parent and the General Partner in their sole and absolute discretion deems fair and reasonable. All payments and reimbursements hereunder shall be characterized for federal income tax purposes as expenses of the Partnership incurred on its behalf, and not as expenses of Parent or the General Partner.

(d) If Parent shall elect to purchase from its stockholders Parent Class A Stock for the purpose of delivering such Parent Class A Stock to satisfy an obligation under any dividend reinvestment program adopted by Parent, any employee stock purchase plan adopted by Parent or any similar obligation or arrangement undertaken by the Parent in the future or for the purpose of retiring such Parent Class A Stock, the purchase price paid by the Parent for such Parent Class A Stock and any other expenses incurred by the Parent in connection with such purchase shall be considered expenses of the Partnership and shall be advanced to Parent or reimbursed to Parent, subject to the condition that: (1) if such Parent Class A Stock subsequently is sold by Parent, Parent shall pay or cause to be paid to the Partnership any proceeds received by the Parent for such Parent Class A Stock (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program; **provided**, **that** a transfer of Parent Class A Stock for Class A OP Units pursuant to Section 8.06 would not be considered a sale for such purposes); and (2) if such Parent Class A Stock is not retransferred by the Parent within 30 days after the purchase thereof, or the Parent otherwise determines not to retransfer such Parent Class A Stock, Parent shall cause the General Partner to cause the Partnership to redeem a number of Class A OP Units held by the Parent equal to the number of shares of such Parent Class A Stock, as adjusted (x) pursuant to Section 7.07 (in the event the Parent acquires material assets, other than on behalf of the Partnership) and (y) for stock dividends and distributions, stock splits and subdivisions, reverse stock splits and combinations, distributions of rights, warrants or options, and distributions of evidences of indebtedness or assets relating to assets not received by the Parent pursuant to a *pro rata* distribution by the Partnership (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Partnership Units held by Parent).

(e) As set forth in Section 4.04, the Parent and General Partner shall be treated as having made a Capital Contribution in the amount of all expenses that each incurs relating to the Parent's offering of Parent Common Stock, Parent Preferred Stock, Parent Junior Stock or New Securities.

(f) If and to the extent any reimbursements to the Parent or General Partner pursuant to this Section 7.04 constitute gross income of the Parent or General Partner (as opposed to the repayment of advances made by the Parent or General Partner on behalf of the Partnership), such amounts shall constitute guaranteed payments with respect to capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

(g) For avoidance of doubt, except to the extent expressly provided otherwise in this Agreement or agreed in writing by the Partnership and the applicable Limited Partner, each Limited Partner shall be responsible for all costs, expenses and liabilities it incurs in connection with its investment in the Partnership and its ownership of any other property or conduct of any activities, and shall not be entitled to any reimbursement or indemnification from Parent, the General Partner or the Partnership therefor.



Section 7.05. **Outside Activities of the Parent and General Partner**. Without limiting the other powers granted to the General Partner under this Agreement, the General Partner, the Parent, and their officers, directors, employees, agents, trustees, Affiliates, stockholders and members shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of the General Partner.

Section 7.06. **Contracts with Affiliates**.

(a) The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment, and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

(b) The Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes to be advisable.

(c) Except as expressly permitted by this Agreement, Parent, the General Partner and their Affiliates shall not sell, transfer or convey any property to the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

(d) The General Partner, in its sole and absolute discretion and without the consent of the Limited Partners, may propose and adopt the Equity Incentive Plan or other equity incentive plans on behalf of the Partnership employee benefit plans funded by the Partnership for the benefit of employees of Parent, the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership or any of the Partnership's Subsidiaries.

(e) The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, any Services Agreement with Affiliates of any of the Partnership, Parent or the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.



Section 7.07. **Indemnification**.

(a) To the fullest extent permitted by applicable law, the Partnership shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities (whether joint or several), expenses (including, without limitation, attorney's fees and other legal fees and expenses), judgments, fines, settlements and other amounts ("**Losses**") arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of Parent, the General Partner or the Partnership ("**Actions**") as set forth in this Agreement in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; **provided**, **however**, **that** the Partnership shall not indemnify an Indemnitee (1) for willful misconduct or a knowing violation of the law, (2) for any transaction for which such Indemnitee received an improper personal benefit in violation or breach of any provision of this Agreement or other agreements between Indemnitee, Parent, the General Partner or the Partnership, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.07(a). The termination of any proceeding by conviction of an Indemnitee or upon a plea of *nolo contendere* or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.07(a) with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.07 shall be made only out of the assets of the Partnership and any insurance proceeds from the liability policy covering the Parent, General Partner and any Indemnitees, and neither the Parent, the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this Section 7.07.

(b) To the fullest extent permitted by law, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any Action shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the Action upon receipt by the Partnership of (1) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in this Section 7.07(b) has been met and (2) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

(c) The indemnification provided by this Section 7.07 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

(d) The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership, Parent or the General Partner (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.07, unless such liabilities arise as a result of (1) such Indemnitee's intentional misconduct or knowing violation of the law, (2) any transaction in which such Indemnitee received a personal benefit in violation or breach of any provision of this Agreement or applicable law, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful.

(f) In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.07 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

(h) The provisions of this Section 7.07 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.07 or any provision hereof shall be prospective only and shall not in any way affect the obligations of the Partnership or the limitations on the Partnership's liability to any Indemnitee under this Section 7.07 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

(i) If and to the extent any payments to the Parent or General Partner pursuant to this Section 7.07 constitute gross income to the Parent or General Partner (as opposed to the repayment of advances made on behalf of the Partnership) such amounts shall be treated as "guaranteed payments" for the use of capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

(j) Primacy of Indemnification; Subrogation. The Partnership hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement and/or insurance provided by one or more persons other than the Company or its subsidiaries with whom or which Indemnitee may be associated. The Partnership hereby agrees that, as between the Partnership and such other persons, it is the indemnitor of first resort with respect to Losses (i.e., its obligations to each Indemnitee with respect to Losses are primary and those of such person's other indemnitors are secondary), it shall be liable for the full amount of all such Losses to the extent legally permitted and that it irrevocably waives any claims against such person's other indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Partnership further agrees that no advancement or payment by such person's other indemnitors on behalf of such Indemnitee with respect to any claim for which such Indemnitee has sought indemnification from the Partnership shall affect the foregoing and such person's other indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Indemnitee against the Partnership.



Section 7.08. **Liability of the General Partner and Certain Related Parties**.

(a) Notwithstanding anything to the contrary set forth in this Agreement, neither the General Partner, the Parent or any of their members, partners, officers or directors shall be liable or accountable in damages or otherwise to the Partnership, any Partners or any Assignees for losses sustained, liabilities incurred or benefits not derived nor shall any such Person have any personal liability whatsoever to the Partnership, any Partners or any Assignees as a result of any action or inactions by any such Person, except in the case of (1) willful misconduct or a knowing violation of the law, (2) for any transaction for which such Person received an improper personal benefit in violation or breach of any provision of this Agreement or other agreement between such person and Parent, the General

Partner or the Partnership, or (3) in the case of any criminal proceeding, such Person had reasonable cause to believe that the act or omission was unlawful. Without limitation of the foregoing, no property or assets of any Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement.

(b) The Limited Partners expressly acknowledge that the General Partner is acting for the benefit of the Partnership, the Limited Partners and the Parent's stockholders collectively and that the General Partner is under no obligation to give priority to the separate interests of the Limited Partners or the Parent's stockholders (including, without limitation, the tax consequences to Limited Partners, Assignees or the Parent's stockholders) in deciding whether to cause the Partnership to take (or decline to take) any actions. If there is a conflict between the interests of the stockholders of the Parent on one hand and the Limited Partners on the other, the Limited Partners expressly acknowledge that the General Partner will fulfill its fiduciary duties to such Limited Partners by acting in the collective best interests of the Parent's stockholders and the Limited Partners as determined by the General Partner acting in good faith.

Subject to its obligations and duties as General Partner set forth in Section 7.01(a) hereof, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through employees or agents of Parent or the General Partner

(c) To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement.

(d) Any amendment, modification or repeal of this Section 7.08 or any provision hereof shall be prospective only and shall not in any way affect the limitations of liability under this Section 7.08 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.



Section 7.09. **Other Matters Concerning the General Partner**.

(a) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

(b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

(c) The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and a duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

Section 7.10. **Title to Partnership Assets**. Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership Assets or any portion thereof. Title to any or all of the Partnership Assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of Parent. The General Partner hereby declares and warrants that any Partnership Assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership Assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11. **Reliance by Third Parties**. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without the consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all Assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be conclusive evidence in favor of any and every Person relying in good faith thereon or claiming thereunder that (1) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (2) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership, and (3) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.



## ARTICLE VIII

## RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.01. **Limitation of Liability**. No Limited Partner shall have any liability under this Agreement (other than for breach thereof) except as expressly provided in Sections 10.02, 10.03, 10.04, 13.02(d) or under the Act. Notwithstanding anything herein to the contrary, except for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Partnership by any Limited Partner pursuant to any other written instrument, no Limited Partner shall have any personal liability whatsoever, to the Partnership or to the other Partner(s), for the debts of the Partnership or the Partnership's obligations hereunder, and the full recourse of the other Partner(s) shall be limited to the interest of that Limited Partner in the Partnership. Without limitation of the foregoing, and except for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Limited Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement.

Section 8.02. **Management of Business**. No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, member, employee, partner, agent or director of the General Partner, the Parent, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, stockholder or trustee of the General Partner, the Parent, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.03. **Outside Activities of Limited Partners**. Notwithstanding anything contained in this Agreement or under applicable principles of Law to the contrary (to the fullest extent permitted by applicable Law), but subject to any written agreements entered into pursuant to Section 7.06(e) hereof and any other written agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership, Parent or any Affiliate thereof (including, without limitation, any employment agreement), any Limited Partner and any Assignee or Affiliate thereof, any officer, director, employee, agent, trustee, Affiliate, member, manager, partner or shareholder of any Limited Partner (A) may engage in or possess an interest in other business ventures of any nature and description (whether similar or dissimilar to the business of the Partnership or and Subsidiary), independently or with others, and none of the Partnership, any Subsidiary, any such other Partner or any of their respective Affiliates shall have any right by virtue of this Agreement in or to any such investment or interest of the Limited Partners or any of their respective Affiliates to any income or profits derived therefrom and the pursuit of any such venture shall not be deemed wrongful or improper, and (B) shall not be obligated to present any investment opportunity to the Partnership or any Subsidiary even if such opportunity is of a character that, if presented to the Partnership or any Subsidiary, could be taken by the Partnership or such Subsidiary, and (ii) the Partners and the Partnership waive (and the Partnership shall cause the Subsidiaries to waive) any fiduciary or other duty of the Partners not expressly set forth in this Agreement, including fiduciary or other duties that may be related to or associated with self-dealing, corporate opportunities or otherwise, in each case so long as such Person acts in a manner consistent with this Agreement. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any

other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner, to the extent expressly provided herein), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.06(e) hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof, to offer any interest in any such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.



Section 8.04. **Return of Capital**. Except pursuant to the rights of Redemption set forth in Section 8.06 hereof, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement, upon termination of the Partnership as provided herein or upon a merger of the General Partner or a sale by the General Partner of all or substantially all of its assets pursuant to Section 7.01(a)(iii) hereof. Except to the extent provided in Article VI hereof or otherwise expressly provided in this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.05. **Adjustment Factor**. The Partnership shall notify any Limited Partner, on request, of the then current Adjustment Factor or any change made to the Adjustment Factor.

Section 8.06. **Class A OP Unit Redemption Rights**.

(a) On or after the date that is 180 days after the date of the final prospectus in the Parent's initial public offering, or another date which is agreed by a Limited Partner and the Partnership, each Partner (other than the Parent, the General Partner or any of their Subsidiaries) shall have the right at any time and from time to time (subject to the terms and conditions set forth herein and in any other such agreement, as applicable) to cause the Partnership to purchase all or a portion of the Class A OP Units held by such Partner (such Class A OP Units being hereafter referred to as "**Tendered Units**") in exchange for the Cash Amount (a "**Redemption**") unless the terms of such Class A OP Units or a separate agreement entered into between the Partnership and the holder of such Class A OP Units provide that such Class A OP Units are not entitled to a right of Redemption. The Tendering Partner shall have no right, with respect to any Class A OP Units so redeemed, to receive any distributions paid on or after the date of delivery of the Cash Amount or the Parent Class A Stock Amount, as the case may be. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner, with a copy to the Parent, by the Partner who is exercising the right (the "**Tendering Partner**"). The Cash Amount shall be payable to the Tendering Partner on the Specified Redemption Date.



(b) Notwithstanding Section 8.06(a) above, if a Partner has delivered a Notice of Redemption to the General Partner, with a copy to the Parent, then the Parent may, in its sole and absolute discretion, elect to assume and satisfy the Partnership's Redemption obligation and acquire some or all of the Tendered Units from the Tendering Partner in exchange for the Parent Class A Stock Amount (as of the Specified Redemption Date) and, if the Parent so elects, the Tendering Partner shall sell the Tendered Units to the Parent in exchange for the Parent Class A Stock Amount. In such event, the Tendering Partner shall have no right to cause the Partnership to redeem such Tendered Units. The Parent shall give such Tendering Partner written notice of its election on or before the close of business on the fifth Business Day after receipt by the General Partner and the Parent of the Notice of Redemption.

(c) The Parent Class A Stock Amount, if applicable, shall be delivered as duly authorized, validly issued, fully paid and nonassessable shares of Parent Class A Stock and, if applicable, free of any pledge, lien, encumbrance or transfer restriction, other than those provided in the Securities Act, relevant state securities or blue sky laws and any applicable registration rights agreement or lockup agreement with respect to such shares of Parent Class A Stock entered into by or binding upon the Tendering Partner. Notwithstanding any delay in such delivery, the Tendering Partner shall be deemed the owner of such shares of Parent Class A Stock for all purposes, including without limitation, rights to vote or consent, and receive dividends, as of the Specified Redemption Date. In addition, the shares of Parent Class A Stock for which the Class A OP Units might be exchanged shall also bear such restrictive legends that the Parent determines are appropriate to mark transfer restrictions and limitations applicable to the shares of Parent Class A Stock;

provided that, if the Parent Class A Stock is listed on a national securities exchange, Parent will apply for the Parent Class A Stock issued hereto to be included in the listing.

(d) Each Partner covenants and agrees with the Parent and the General Partner that all Tendered Units shall be delivered to the Parent or General Partner free and clear of all liens, claims and encumbrances whatsoever and should any such liens, claims and/or encumbrances exist or arise with respect to such Tendered Units, the Parent or General Partner shall be under no obligation to acquire the same. Each Partner further agrees that, in the event any state or local property transfer tax is payable as a result of the transfer of its Tendered Units to the Parent or General Partner (or its designee), such Partner shall assume and pay such transfer tax.

(e) Notwithstanding anything herein to the contrary, with respect to any Redemption or exchange for Parent Class A Stock pursuant to this Section 8.06: (i) each Partner may effect a Redemption only one time in each fiscal quarter; (ii) without the consent of the General Partner, each Partner may not effect a Redemption for less than 1,000 Class A OP Units or, if the Partner holds less than 1,000 Class A OP Units, all of the OP Units held by such Partner; (iii) without the consent of the General Partner (not to be unreasonably withheld), each Partner may not effect a Redemption during the period after the Partnership Record Date with respect to a distribution and before the record date established by the Parent for a distribution to its stockholders of some or all of its portion of such distribution; (iv) the consummation of any Redemption or exchange for Parent Class A Stock shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; and (v) each Tendering Partner shall continue to own all Class A OP Units subject to any Redemption or exchange for Parent Class A Stock, and be treated as a Partner with respect to such Class A OP Units for all purposes of this Agreement, until such Class A OP Units are transferred to the General Partner and paid for or exchanged on the Specified Redemption Date. Until a Specified Redemption Date, the Tendering Partner shall have no rights as a stockholder of the Parent with respect to such Tendering Partner's Class A OP Units. In addition, the General Partner may, with respect to any holder or holders of Class A OP Units, at any time and from time to time, as it shall determine in its sole discretion, including, by way of example only, in connection with the exercise of demand or block trade registration rights under the Registration Rights Agreement (i) reduce or waive the length of the period prior to which such holder or holders may not exercise the right of Redemption and/or exchange or (ii) reduce or waive the length of the period between the exercise of the right of Redemption and/or exchange and the Specified Redemption Date.



(f) In the event that the Partnership issues additional Partnership Interests to any Additional Limited Partner pursuant to Section 4.03, the General Partner shall make such revisions to this Section 8.06, without the approval of the Limited Partners, as it determines are necessary to reflect the issuance of such additional Partnership Interests.

(g) Notwithstanding anything contained herein to the contrary, at the request of any Qualifying Corporate LP (as herein defined) given at any time after the date that such Qualifying Corporate LP is eligible to exercise redemption rights under Section 8.06(a), (each such Qualifying Corporate LP, an "**Electing Qualifying Corporate LP**"), the Partnership and Parent shall effect a merger or other combination of Parent and the Electing Qualifying Corporate LP in a manner that is tax efficient for both Parent and the Electing Qualifying Corporate LP, including by implementing as expeditiously as possible an alternative exchange transaction (each an "**Alternative Exchange Transaction**") in which the Electing Qualifying Corporate LP and/or its Blockers (as defined in the operating agreement of PHC LLC) will be acquired in a merger transaction in which such Electing Qualifying Corporate LP will be merged with a subsidiary of Parent and the shareholders of the Electing Qualifying Corporate LP will receive as consideration in the merger the Parent Class A Stock Amount, or utilizing another structure mutually agreed upon by such Electing Qualifying Corporate LP and Parent so that such Electing Qualifying Corporate LP is not subject to a level of corporate tax in such merger or other transaction. The Alternative Exchange Transaction shall be implemented through a merger agreement, executed by the Electing Qualifying Corporate LP and Parent and any necessary subsidiaries or Affiliates thereof, in customary form and reasonably satisfactory to both parties, pursuant to which the parties will be required to make customary representations and warranties to each other, including by the Electing Qualifying Corporate LP confirming its qualification as a Qualifying Corporate LP, and Parent, the Partnership and the Electing Qualifying Corporate LP shall take any further acts and execute and deliver any additional documents and instruments that may be necessary or reasonably requested by the Electing Qualifying Corporate LP to carry out the provisions of this Section 8.06(g). For this purpose, a "**Qualifying Corporate LP**" means any Limited Partner which is or was a direct or indirect member of PHC LLC which (i) is subject to taxation as a domestic corporation for U.S. federal income tax purposes, (ii) holds no assets (other than the Tendered Units, Parent Class A Stock or Parent Class B Stock (all which at the time of the Alternative Exchange Transaction shall be free and clear of all liens, claims and encumbrances whatsoever)), (iii) is subject to no liabilities other than for Taxes which are not yet due and payable and for which the Qualifying Corporate LP shall be responsible, and (iv) has conducted no business other than the direct or indirect ownership of PHC

LLC equity interests, the Class A OP Units, Parent Class A Stock or Parent Class B Stock. This provision shall apply to each Qualifying Corporate LP, each of which shall have an independent and several right hereunder.



Each Qualifying Corporate LP, and each Member of PHC LLC that elects to hold (or whose owners hold), directly or indirectly, all or any portion of its membership interests in PHC LLC through one of more Blockers shall be and is an intended and express third-party beneficiary of this Section 8.06(g) and shall have the right, exercisable in its sole discretion, to enforce the terms and conditions of this Section 8.06(g) against the Partnership and Parent, as applicable, or prevent the breach thereof, or to exercise any other right, or seek any other remedy, which may be available to it as a third-party beneficiary of this Section 8.06(g). In addition, neither the Partnership, the General Partner nor Parent shall agree to any changes, modifications or amendments to this Section 8.06(g), without the prior written consent of Qualifying Corporate LPs holding directly or indirectly a majority in interest of the Class A OP Units of the Partnership held by all Qualifying Corporate LPs.

Section 8.07. **Class B OP Unit Issuances and Conversions**

(a) Unless otherwise approved by the General Partner, upon any issuance of Parent Class B Stock by the Parent, the Partnership shall issue to the Parent an equal number of Class B OP Units.

(b) If, at any time, shares of Parent Class B Stock are mandatorily converted into shares of Parent Class A Stock in accordance with Section 6.2.2 of the Charter, a number of Class B OP Units equal to the number of shares of Parent Class B Stock so converted shall be mandatorily and automatically converted into a number of Class A OP Units equal to the number of shares of Parent Class A Stock issued upon such conversion.

## ARTICLE IX

## BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.01. **Records and Accounting**.

(a) The General Partner shall keep or cause to be kept at the principal office of the Partnership those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 8.05 or 9.03 hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on, or be in the form for, magnetic tape, photographs, micrographics or any other information storage device; **provided**, **that** the records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles.



(b) The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the General Partner may operate with integrated or consolidated accounting records, operations and principles. The Partnership also shall maintain its tax books on the accrual basis.

Section 9.02. **Partnership Year**. The Partnership Year of the Partnership shall be the calendar year.

Section 9.03. **Reports**.

(a) As soon as practicable, but in no event later than the date on which the Parent mails its annual report to its stockholders, the General Partner shall cause to be mailed to each Limited Partner an annual report, as of the close of the most recently ended Partnership Year, containing financial statements of the Partnership, or of the Parent if such statements are prepared solely on a consolidated basis with the Partnership, for such Partnership Year, presented in accordance with generally accepted accounting principles, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

(b) If and to the extent that the Parent mails or makes available quarterly reports to its stockholders, as soon as practicable, but in no event later than the date on such reports are mailed or made available, the General Partner shall cause to be mailed or made available to each Limited Partner a copy of such report, together with such other information as may be required by applicable law or regulations, or as the General Partner determines to be appropriate.

(c) The General Partner shall have satisfied its obligations under Section 9.03(a) and 9.03(b) hereof by posting or making available the reports required by this Section 9.03 on the website maintained from time to time by the Partnership provided that such reports are able to be printed or downloaded from such website.

## ARTICLE X

## TAX MATTERS

Section 10.01. **Preparation of Tax Returns**. The General Partner shall prepare or cause to be prepared all federal, state and local, as well as non-U.S., if any, tax returns of the Partnership for each year for which such returns are required to be filed and shall file or cause such returns to be filed. The General Partner, in its good-faith but sole discretion, shall determine the appropriate treatment of each item of income, gain, loss, deduction and credit of the Partnership and the accounting methods and conventions under the tax laws of the United States, the several states and other relevant jurisdictions as to the treatment of any such item or any other method or procedure related to the preparation of such tax returns. The General Partner may cause the Partnership to make or refrain from making any and all elections permitted by such tax laws (including without limitation elections under Section 754 of the Code). The General Partner shall use reasonable efforts to furnish, within seven (7) months after the close of each Partnership Year, to each Partner a completed IRS Schedule K-l (and any comparable state income tax form). In addition, upon a reasonable request therefor by any Partner, the General Partner shall cause the Partnership to provide to such Partner information relating to the Partnership that is necessary for such Partner to comply with its tax reporting obligations. Each Partner agrees that it will take no position on such Partner's tax returns inconsistent with the positions taken by the Partnership.



Section 10.02. **Tax Audits**. The General Partner is authorized to represent the Partnership in, and shall control the conduct of, any disputes, controversies, audits or other administrative or judicial proceedings with the IRS and any other tax authorities (subject to Section 5.5(c) of the Contribution Agreement). The General Partner is hereby authorized to take the actions required to be designated (or to cause its designee to be designated) as the "partnership representative" under Section 6223 of the Code (and any similar function under state or local law), and to take any and all actions that the "partnership representative" is authorized to take under the Code (and any similar function under state or local law). Without limiting the generality of the foregoing, with respect to any audit or other proceeding, the General Partner shall be entitled to cause the Partnership to make any available elections pursuant to Section 6226 of the Code (and similar provisions of state, local and other law), and the Partners shall cooperate to the extent reasonably requested by the General Partner in connection therewith. Each Partner hereby waives any rights it may have pursuant to the Code or otherwise (other than, for avoidance of doubt, rights provided to PHC LLC pursuant to Section 5.5(c) of the Contribution Agreement) to participate in any tax matters or controversies with respect to the Partnership. Each Partner agrees to reimburse the General Partner and the Partnership for the costs of the General Partner and the Partnership in contesting a partnership adjustment, and to advance any deposit required to contest such partnership adjustment, in accordance with the relative rights of the Partners and former Partners in the Partnership to distributions under Section 5.01 during the reviewed Partnership Year, as determined by the General Partner in its good-faith but sole discretion, or in accordance with any other allocation that the General Partner determines in its good-faith but sole discretion to be more equitable (including an allocation solely to the Partners and former Partners to which a related "imputed underpayment" is attributable).

Section 10.03. **Withholding**.

(a) Notwithstanding any other provision of this Agreement, each Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Partner any amount of federal, state, local or foreign taxes that the General

Partner determines the Partnership is required to withhold or pay, including any interest, penalties or additional amounts assessed or imposed with respect thereto and any amounts required to be paid by the Partnership with respect to a Partner under Sections 6225 and 6232 of the Code, with respect to any amount distributable or allocable to such Partner pursuant to this Agreement or otherwise as a result of such Partner's participation in the Partnership, including without limitation pursuant to Sections 1441, 1442, 1445, 1446(a) or 1446(f) of the Code or accompanying Treasury Regulations. If and to the extent that the Partnership is required to withhold or pay any such withholding or other taxes, interest or penalties allocable to a Partner, such Partner will be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time that such withholding or other tax is required to be paid (or such later date as the General Partner may determine in its discretion), which payment will, except to the extent funded by such Partner pursuant to the next sentence, be deemed to be a distribution pursuant to Section 5.01 to such Partner. To the extent that such withholding or payment exceeds the cash distributions that such Partner would have received but for such withholding or payment, the amount of such excess will be considered a loan from the Partnership to such Partner until discharged by such Partner by repayment, which may, at the option of the General Partner, be satisfied (i) out of distributions (including in-kind distributions) to which such Partner would otherwise be subsequently entitled, or (ii) by the immediate payment in cash to the Partnership of such excess amount. Such loan shall bear interest from the date such withholding or other tax was required to be paid until the date the loan is actually paid at a rate equal to the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, plus four percentage points (but not higher than the maximum lawful rate). The repayment of any amounts owed under this Section 10.03 will not be treated as a Capital Contribution and, consequently, will not increase the Capital Account of such Partner. The General Partner, on behalf of the Partnership, will be entitled to take any other action it determines to be necessary or appropriate in connection with any obligation or possible obligation to impose withholding pursuant to any tax law or to pay any tax with respect to a Partner, to the fullest extent permitted by law, unless otherwise agreed to by the General Partner (on its own behalf or on behalf of the Partnership). Each Partner acknowledges that the General Partner may be required to provide the identities of each such Partner's direct and indirect beneficial owners to a governmental entity in connection with complying with the foregoing. In the event the Partnership has to withhold any amounts pursuant to Section 1471 through Section 1474 of the Code or any non-U.S. laws, rules or regulations implementing any intergovernmental agreements entered into in connection with the implementation of such Sections of the Code ("**FATCA**"), such withheld taxes will be allocated or apportioned to those Partners whose failure to provide tax forms, documents or other information results in the imposition of such withheld taxes under FATCA.



(b) In the event that the Partnership receives a distribution or payment from or in respect of which tax, or any interest or penalties assessed or imposed with respect thereto, has been directly or indirectly withheld or paid with respect to the Partnership's investments that is allocable to a Partner, the Partnership will be deemed to have received cash in an amount equal to the amount of such tax, and each Partner will be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time of such distribution (or such later date as the General Partner may determine in its sole discretion) equal to the portion of such amount that is attributable to such Partner's interest in the Partnership as determined in good faith by the General Partner, which payment will, except to the extent funded by such Partner pursuant to the next sentence, be deemed to be a distribution pursuant to Section 5.01 to such Partner. To the extent that such deemed payment exceeds the cash distribution that such Partner would have received but for such withholding, the applicable provisions of Section 10.03(a) will apply to such excess.

(c) Any withholdings referred to in this Section 10.03 will be made at the maximum applicable statutory rate under applicable tax law unless the General Partner has received evidence satisfactory to the General Partner to the effect that a lower rate is applicable or that no withholding is applicable.



(d) In the event of an adjustment to the Partnership's taxes or tax returns by a governmental authority (or any entity in which the Partnership holds a direct or indirect interest), the General Partner in its good-faith but sole discretion will allocate the burden of (or any decrease in distributions under Sections 5.01 or 13.02 resulting from) any taxes, penalties or interest imposed on the Partnership pursuant to Code Sections 6225 and 6232 among the Partners in a reasonable manner based on the status, actions, inactions or other attributes of each Partner. Any amounts allocated to a Partner pursuant to the preceding sentence will be treated as withholding tax that arises as a result of the status or other matters that are particular to a Partner. Each Partner acknowledges and agrees that (i) if so requested by the General Partner, such Partner will be required to provide the General Partner with documents, information, assistance

or cooperation in connection with the requirements imposed on the Partnership pursuant to Sections 6221 through 6241 of the Code, together with any guidance issued thereunder, and (ii) if such Partner fails to provide such documentation, information, assistance or cooperation (including as a result of a Partner not being eligible to provide any requested documentation), any taxes, penalties or interest imposed on the Partnership as a result of such failure will be allocated to such Partner in accordance with this Section 10.03(d).

Section 10.04. **Cooperation; Reimbursement**.

(a) The Partners agree to furnish such information, reasonably promptly, or take such other action as the General Partner may reasonably request in connection with the General Partner's implementation of this Article X, and further agree that such obligations shall survive any Transfer by a Partner of its Partnership Units, or its removal or resignation from the Partnership.

(b) Any direct or indirect costs and expenses incurred by the General Partner in connection with its implementation of this Article X, shall be deemed costs and expenses of the Partnership, and (subject to the provisions of Section 10.03) the Partnership shall reimburse the General Partner for all such reasonable and documented out of pocket costs and expenses.

(c) A Partner's obligations to comply with the requirements of this Article X shall survive such Partner's ceasing to be a Partner of the Partnership and/or the termination, dissolution, liquidation and winding up of the Partnership.

## ARTICLE XI

## TRANSFERS AND WITHDRAWALS

Section 11.01. **Transfer**.

(a) No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

(b) No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article XI. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this Article XI shall be null and void *ab initio* unless consented to by the General Partner in its sole and absolute discretion.



(c) No Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner in its sole and absolute discretion; **provided**, **that** as a condition to such consent, the lender will be required to enter into an arrangement with the Partnership and the General Partner to redeem or exchange for Parent Common Stock any Partnership Units in which a security interest is held by such lender concurrently with such time as such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Code Section 752.

(d) Class A OP Units shall only be transferrable under this Article XI in connection with the transfer of an equal number of shares of Parent Class B Stock. Any attempted or purported transfer of Class A OP Units in violation of the limitations set forth in this Section 11.01(d) shall be void *ab initio*.

Section 11.02. **Transfer of Parent's and General Partner's Partnership Interest**.

(a) The Parent and the General Partner may not transfer any of their Partnership Interests except in connection with (i) a transaction permitted under Section 11.02(b), (ii) any merger (including a triangular merger), consolidation or other combination with or into another Person following the consummation of which the equity holders of the surviving entity are substantially identical to the stockholders of the Parent, or (iii) as otherwise expressly permitted under this Agreement, nor shall the General Partner withdraw as General Partner except in connection with a transaction permitted under Section 11.02(b) or any merger, consolidation, or other combination permitted under clause (ii) of this Section 11.02(a).

(b) The Parent and General Partner shall not engage in any merger (including, without limitation, a triangular merger), consolidation or other combination with or into another Person (other than any transaction permitted by Section 11.02(a)), sale of all or substantially all of its assets or any reclassification, recapitalization or change of outstanding shares of Parent Common Stock (other than a change in par value, or from par value to no par value, or as a result of a subdivision or combination as described in the definition of "Adjustment Factor") ("**Termination Transaction**"), unless:

(i) following such merger or other consolidation, substantially all of the assets of the surviving entity consist of Partnership Units;

(ii) in connection with which either (A) holders of at least a majority of the outstanding Class A OP Units consent to such Termination Transaction or (B) all Partners (other than the Parent and General Partner) who hold Class A OP Units either will receive, or will have the right to receive, for each Class A OP Unit outstanding Parent Common Stock having the same or substantially equivalent consideration as the highest amount of consideration offered per share of Parent Class A Stock in the transaction, **provided, however, that**, if in connection with the Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the percentage required for the approval of mergers under the organizational documents of the Parent, each holder of Class A OP Units shall receive, or shall have the right to receive without any right of consent set forth above in this Section 11.02(b), the amount of cash, Parent Class A Stock or other securities which such holder would have received had it exercised the Redemption Right and received Parent Class A Stock in exchange for its Class A OP Units; or



(iii) all of the following conditions are met: (A) substantially all of the assets directly or indirectly owned by the surviving entity are owned directly or indirectly by the Partnership or another limited partnership or limited liability company which is the survivor of a merger, consolidation or combination of assets with the Partnership (in each case, the "**Surviving Partnership**"), (B) the Limited Partners that held Class A OP Units immediately prior to the consummation of such Termination Transaction own a percentage interest of the Surviving Partnership based on the relative fair market value of the net assets of the Partnership and the other net assets of the Surviving Partnership immediately prior to the consummation of such transaction; (C) the rights, preferences and privileges in the Surviving Partnership of such Limited Partners are at least as favorable as those in effect with respect to the Class A OP Units immediately prior to the consummation of such transaction; and (D) the rights of such holders of Class A OP Units include at least one of the following: (1) the right to redeem their interests in the Surviving Partnership for the consideration available to such persons pursuant to Section 8.06 or (2) the right to redeem their interests in the Surviving Partnership for cash on terms substantially equivalent to those in effect with respect to their Class A OP Units immediately prior to the consummation of such transaction, or, if the ultimate controlling person of the Surviving Partnership has publicly traded common equity securities, such common equity securities, with an exchange ratio based on the determination of relative fair market value of such securities and the shares of Parent Class A Stock.

(c) The Parent and General Partner shall not enter into an agreement or other arrangement providing for or facilitating the creation of a General Partner other than the General Partner, unless the successor General Partner executes and delivers a counterpart to this Agreement in which such General Partner agrees to be fully bound by all of the terms and conditions contained herein that are applicable to a General Partner.

Section 11.03. **Transfer of Limited Partners' Partnership Interests**.

(a) Subject to the restrictions on transfer in this Article XI, no Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the written consent of the General Partner, which consent may be withheld in its sole and absolute discretion, **provided**, **however**, **that** (i) a Limited Partner may Transfer all or any portion of its Partnership Interest to any Affiliate of such Limited Partner or for bona fide estate planning purposes to an immediate family member or the legal representative, estate, trustee or other successor in interest, as applicable, of such Limited Partner, (ii) in the case of a Limited Partner which is a partnership, limited liability company, joint venture, corporation or other business entity, to its partners, owners or shareholders, as the case may be, and (iii) following the date that is one-year after the date hereof (subject to Section 11.03(b)), the General Partner shall not unreasonably withhold its consent to such a Transfer.

(b) Without limiting the generality of Section 11.03(a) hereof, it is expressly understood and agreed that the General Partner will not consent to any Transfer of all or any portion of any Partnership Interest pursuant to Section 11.03(a) above unless such Transfer meets each of the following conditions:

(i) such Transfer is made only to a single Qualified Transferee, **provided**, **however**, **that** for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee.

(ii) The transferee in such Transfer assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest; **provided**, **that** no such Transfer (unless made pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its obligations under this Agreement without the approval of the General Partner, in its sole and absolute discretion. Any transferee, whether or not admitted as a Substituted Limited Partner, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.05 hereof.

(c) If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than those enjoyed by other Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

(d) In connection with any proposed Transfer of a Limited Partner Interest, the General Partner shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred.

(e) No Transfer by a Limited Partner of its Partnership Interests (including any Redemption, any other acquisition of Partnership Units by the Partnership, Parent or the General Partner) may be made to or by any person, without the consent of the General Partner in its sole discretion, if (i) in the opinion of legal counsel for the Partnership, there is a significant risk that it would result in the Partnership being treated as an association taxable as a corporation or would result in a termination of the Partnership under Code Section 708 or (ii) such Transfer would be effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704.



Section 11.04. **Substituted Limited Partners**.

(a) A transferee of the interest of a Limited Partner pursuant to a Transfer consented to by the General Partner pursuant to Section 11.03(a) may be admitted as a Substituted Limited Partner only with the consent of the General Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, (ii) a counterpart signature page to this Agreement executed by such Assignee, and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

(b) A transferee who has been admitted as a Substituted Limited Partner in accordance with this Article XI shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

(c) Upon the admission of a Substituted Limited Partner, the General Partner shall amend the Ownership Schedule to reflect the name, address and number of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

Section 11.05. **Assignees**. If the General Partner, in its sole and absolute discretion, does not consent to the admission of any transferee of any Partnership Interest as a Substituted Limited Partner in connection with a transfer permitted by the General Partner pursuant to Section 11.03(a), such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee and the rights to Transfer the Partnership Units only in accordance with the provisions of this Article XI, but shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to effect a consent or vote or effect a Redemption with respect to such Partnership Units on any matter presented to the Limited Partners for approval (such right to consent or vote or effect a Redemption, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Limited Partner). In the event that any such transferee desires to make a further assignment of any such Partnership Units, such transferee shall be subject to all the provisions of this Article XI to the same extent and in the same manner as any Limited Partner desiring to make an assignment of Partnership Units.

Section 11.06. **General Provisions**.

(a) No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this Article XI, with respect to which the transferee becomes a Substituted Limited Partner, or pursuant to a redemption (or acquisition by the Parent) of all of its Partnership Units pursuant to a Redemption under Section 8.06 hereof and/or pursuant to any Partnership Unit Designation.



(b) Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) consented to by the General Partner pursuant to this Article XI where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under Section 8.06 hereof and/or pursuant to any Partnership Unit Designation, or (iii) to the Parent, whether or not pursuant to Section 8.06(b) hereof, shall cease to be a Limited Partner.

(c) If any Partnership Unit is Transferred in compliance with the provisions of this Article XI, or is redeemed by the Partnership, or acquired by the General Partner pursuant to Section 8.06 hereof, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer or assignment other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d) and the corresponding Regulations, using the "interim closing of the books" method or another permissible method selected by the General Partner (unless the General Partner in its sole and absolute discretion elects to adopt a daily, weekly or monthly proration period, in which case Net Income or Net Loss shall be allocated based upon the applicable method selected by the General Partner). All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

(d) In no event may any Transfer or assignment of a Partnership Interest by any Partner (including any Redemption, any acquisition of Partnership Units by the Parent or General Partner or any other acquisition of Partnership Units by the Partnership) be made (i) to any person or entity who lacks the legal right, power or capacity to own a Partnership Interest; (ii) in violation of applicable law; (iii) of any component portion of a Partnership Interest, such as the Capital Account, or rights to distributions, separate and apart from all other components of a Partnership Interest; (iv) except with the consent of the General Partner, if such Transfer, in the opinion of counsel to the Partnership or the General Partner, would create a significant risk that such transfer would cause a termination of the Partnership for federal or state income tax purposes; (v) if such Transfer would, in the opinion of legal counsel to the Partnership, cause the Partnership to cease to be classified as a partnership for federal income tax purposes (except as a result of the Redemption (or acquisition by the General Partner) of all Partnership Units held by all Limited Partners); (vi) if such Transfer would cause the

Partnership to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c)); (vii) without the consent of the General Partner, to any benefit plan investor within the meaning of Department of Labor Regulations Section 2510.3-101(f); (viii) if such Transfer would, in the opinion of legal counsel to the Partnership or the General Partner, cause any portion of the assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.3-101; (ix) if such Transfer requires the registration of such Partnership Interest pursuant to any applicable federal or state securities laws; (x) if such Transfer causes the Partnership (as opposed to the General Partner) to become a reporting company under the Exchange Act; or (xi) if such Transfer subjects the Partnership to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended.



## ARTICLE XII

## ADMISSION OF PARTNERS

Section 12.01. **Admission of Successor General Partner**. A successor to all of the General Partner's General Partner Interest pursuant to Section 11.02 hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately prior to such Transfer. Any such successor shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission. Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall amend the Ownership Schedule and the books and records of the Partnership to reflect the name, address and number of Partnership Units of such Additional Limited Partner.

Section 12.02. **Admission of Additional Limited Partners**.

(a) After the Effective Date, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.04 hereof, (ii) a counterpart signature page to this Agreement executed by such Person, and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner and the satisfaction of all the conditions set forth in this Section 12.02.

(b) Notwithstanding anything to the contrary in this Section 12.02, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner's sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

(c) If any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Partners and Assignees for such Partnership Year shall be allocated *pro rata* among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Partners and Assignees including such Additional Limited Partner, in accordance with the principles described in Section 11.06(c) hereof. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

Section 12.03. **Amendment of Agreement and Certificate of Limited Partnership**. For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of the Ownership Schedule) and, if required by law, shall prepare and file an amendment to the Certificate and may for this purpose exercise the power of attorney granted pursuant to Section 2.04 hereof.

Section 12.04. **Limit on Number of Partners**. Unless otherwise permitted by the General Partner, no person shall be admitted to the Partnership as an Additional Limited Partner if the effect of such admission would be to cause the Partnership to have a number of Partners that would cause the Partnership to become a reporting company under the Exchange Act.

Section 12.05. **Admission**. A Person shall be admitted to the Partnership as a Limited Partner of the Partnership only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Partnership as an Additional Limited Partner.

## ARTICLE XIII

## DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.01. **Dissolution**. The Partnership shall not be dissolved by the admission of Additional Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "**Liquidating Event**"):

(a) a final and nonappealable judgment is entered by a court of competent jurisdiction ruling that the General Partner is bankrupt or insolvent, or a final and nonappealable order for relief is entered by a court with appropriate jurisdiction against the General Partner, in each case under any federal or state bankruptcy or insolvency laws as now or hereafter in effect, unless, prior to the entry of such order or judgment, a Majority in Interest of the Class A OP Units consent in writing, in their sole and absolute discretion, to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such order or judgment, of a successor General Partner;



(b) an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion, with the consent of a Majority in Interest of the Class A OP Units;

(c) entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

(d) the occurrence of a Terminating Capital Transaction;

(e) the Redemption (or acquisition by the Parent) of all Partnership Units other than Partnership Units held by the Parent or General Partner; or

(f) the Incapacity or withdrawal of the General Partner, unless all of the remaining Partners in their sole and absolute discretion agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such Incapacity, of a substitute General Partner.

Section 13.02. **Winding Up**.

(a) Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners. After the occurrence of a Liquidating Event, no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. The General Partner or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Class A OP Units (the General Partner or such other Person being referred to herein as the "**Liquidator**") shall be responsible for

overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership's liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include Parent Common Stock) shall be applied and distributed in the following order:

(i) first, to the satisfaction of all of the Partnership's Debts and liabilities to creditors other than the Partners and their Assignees (whether by payment or the making of reasonable provision for payment thereof);

(ii) second, to the satisfaction of all of the Partnership's Debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements of the Parent or General Partner under Section 7.04 hereof;

(iii) third, to the satisfaction of all of the Partnership's Debts and liabilities to the other Partners and any Assignees (whether by payment or the making of reasonable provision for payment thereof); and

(iv) the balance, if any, to the Partners in accordance with Section 5.01.



The General Partner shall not receive any additional compensation for any services performed pursuant to this Article XIII.

(b) Notwithstanding the provisions of Section 13.02(a) hereof that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.02(a) hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

(c) In the event the Partnership is wound up as described in the foregoing provisions of this Section 13.02, if any Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such winding up occurs) (a "**Capital Account Deficit**"), such Partner shall not be required to make any contribution to the capital of the Partnership with respect to such Capital Account Deficit and such Capital Account Deficit shall not be considered a debt owed to the Partnership or any other person for any purpose whatsoever. Notwithstanding the preceding sentence, (i) if the General Partner has a Capital Account Deficit, the General Partner shall contribute to the capital of the Partnership the amount necessary to restore such Capital Account Deficit balance to zero; and (ii) in the case of any other Partner, the preceding sentence shall not apply to the extent, but only to the extent, that such Partner previously has agreed in writing, with the consent of the General Partner, to undertake an express obligation to restore all or any portion of a deficit that may exist in its Capital Account upon a liquidation of the Partnership.

(d) In the sole and absolute discretion of the General Partner or the Liquidator, a *pro rata* portion of the distributions that would otherwise be made to the Partners pursuant to this Article XIII may be:

(i) distributed to a trust established for the benefit of the General Partner and the Limited Partners for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the General Partner and the Limited Partners, from time to time, in the reasonable discretion of the General Partner or the Liquidator, in the same proportions and amounts as would otherwise have been distributed to the General Partner and the Limited Partners pursuant to this Agreement; or

(ii) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, **provided**, **that** such withheld or escrowed amounts shall be distributed to the General Partner and Limited Partners in the manner and order of priority set forth in Section 13.02(a) hereof as soon as practicable.

Section 13.03. **Rights of Limited Partners**. Except as otherwise provided in this Agreement, (a) each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Limited Partner shall have the right or power to demand or receive property other than cash from the Partnership, and (c) no Limited Partner (other than any Limited Partner who holds Preferred Units, to the extent specifically set forth herein and in the applicable Partnership Unit Designation) shall have priority over any other Limited Partner as to the return of its Capital Contributions, distributions or allocations.

Section 13.04. **Notice of Dissolution**. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to Section 13.01 hereof, result in a dissolution of the Partnership, the General Partner shall, within 30 days thereafter, provide written notice thereof to each of the Partners and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

Section 13.05. **Cancellation of Certificate of Limited Partnership**. Upon the completion of the liquidation of the Partnership cash and property as provided in Section 13.02 hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed with the State of Delaware, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.06. **Reasonable Time for Winding-Up**. A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.02 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between the Partners during the period of liquidation.

## ARTICLE XIV

## PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS

Section 14.01. **Procedures for Actions and consents of Partners**. The actions requiring consent or approval of Limited Partners pursuant to this Agreement, including Section 7.03 hereof, or otherwise pursuant to applicable law, rule or regulation, are subject to the procedures set forth in this Article XIV.



Section 14.02. **Amendments and Consents**. The amendment procedure is as follows:

(a) Amendments to this Agreement may only be proposed by the General Partner. Following such proposal, the General Partner shall deliver a notice pursuant to Section 15.01 hereto containing any proposed amendment or consent (except as set forth in 14.02(b)) to the holders of the Class A OP Units; **provided that** the General Partner shall submit any proposed amendment or consent with respect to the subject matter of Section 7.03(d) herein to each Partner adversely affected thereby. The General Partner shall seek the written consent of a Majority in Interest of the Class A OP Units on the proposed amendment or consent (or the written consent of each Partner with respect to the subject matter of Section 7.03(d)), or shall call a meeting to vote thereon and to transact any other business that the General Partner may deem appropriate. For purposes of obtaining a written consent, the General Partner may require a response within a reasonable specified time, but not less than ten (10) Business Days, and, in the case of failure of a Holder to respond

in such time period shall constitute a consent that is consistent with the General Partner's recommendation with respect to the proposal; **provided, however, that** an action shall become effective at such time as requisite consents are received even if prior to such specified time.

(b) Notwithstanding any other provision of this Agreement to the contrary, the General Partner shall have the sole and exclusive power to make the following amendments without the consent of, or prior notice to, any Holder:

(i) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

(ii) to reflect the issuance of Partnership Units pursuant to Section 4.03, the transfer of Partnership Units pursuant Article XI and the admission, substitution or withdrawal of Partners or the termination of the Partnership in accordance with this Agreement, and to amend the Ownership Schedule in connection with any such issuance, transfer, admission, substitution or withdrawal

(iii) to set forth in this Agreement the designations, rights, powers, duties and preferences of the holders of any additional Partnership Units issued pursuant to this Agreement and to classify and reclassify Partnership Interests and Partnership Units in accordance with Article IV;

(iv) to reflect a change that is of an inconsequential nature or does not adversely affect the Limited Partners in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement, in each case so long as such change does not adversely affect the Limited Partners in any material respect;

(v) making a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, statute, ruling or regulation of a federal or state agency or contained in federal or state law, so long as such change is made in a manner that minimizes any adverse effect on the Limited Partners;



(vi) to modify either or both the manner in which items of Net Income or Net Loss are allocated pursuant to Article VI or the manner in which Capital Accounts are adjusted, computed or maintained (but only to the extent set forth in the definition of "Capital Account" or contemplated by the Code or the Regulations);

(vii) making a change that is necessary or, in the opinion of the General Partner, advisable to qualify the Partnership as a limited partnership or an entity in which the Holders have limited liability under the laws of any state or foreign jurisdiction, or ensure that the Partnership will not be classified as an association taxable as a corporation or treated as a "publicly-traded partnership" taxable as a corporation for U.S. federal tax purposes;

(viii) making a change to prevent the Partnership from in any manner being deemed an "Investment Company" subject to the provisions of the Investment Company Act; or

(ix) (A) to the extent that the General Partner has elected that the assets of the Partnership should not constitute "plan assets" for purposes of ERISA to take such actions as may be necessary or appropriate to avoid the assets of the Partnership being treated for any purpose of ERISA or Section 4975 of the Code as assets of any "employee benefit plan" as defined in and subject to ERISA or of any plan or account subject to Section 4975 of the Code (or any corresponding provisions of succeeding law) or (B) to avoid the Partnership's engaging in a prohibited transaction as defined in Section 406 of ERISA or Section 4975(c) of the Code; and

(x) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Partnership or the General Partner and which does not violate Section 7.03(d).

(c) Other than as set forth in Section 7.03(d), as required by the Act, or as expressly specified in any amendment hereto, no Class B OP Unit, LTIP Unit or other Partnership Unit (excluding Class A OP Units) shall have any right to vote, approve or

consent with respect to any matter concerning the Partnership. Other than as forth in Section 7.03(d), where the consent of Majority in Interest of the Class A OP Units is required, as required by the Act, or as expressly specified in any amendment hereto, no Class A OP Unit shall have any right to vote, approve or consent with respect to any matter concerning the Partnership. To the extent a holder of Partnership Units has a right to vote on any matter, each Partnership Unit shall have one vote on each such matter.

Section 14.03. **Meetings of the Partners**.

(a) Meetings of the Partners may be called by the General Partner and shall be called upon the receipt by the General Partner of a written request by a Majority in Interest of the Class A OP Units. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than seven days nor more than 30 days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Whenever the vote or consent of Partners is permitted or required under this Agreement, such vote or consent may be given at a meeting of Partners or may be given in accordance with the procedure prescribed in Section 14.03(b) hereof.



(b) Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action so taken is signed by a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement for the action in question). Such approvals may be obtained by the General Partner by means of written notice to the Limited Partners requiring them to respond in the negative by a specified time, or to be deemed to have approved of the proposed action. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as a vote of a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified.

(c) Each Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or its attorney-in-fact. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy. The use of proxies will be governed in the same manner as in the case of corporations organized under the Delaware General Corporation Law (including Section 212 thereof).

(d) Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the Parent's stockholders and may be held at the same time as, and as part of, the meetings of the Parent's stockholders.

(e) On matters on which Limited Partners are entitled to vote, each Limited Partner holding Class A OP Units shall have a vote equal to the number of Class A OP Units held.

(f) Except as otherwise expressly provided in this Agreement, when the consent of the Limited Partner is required, the consent of Holders of a Majority in Interest of the Class A OP Units shall control.

## ARTICLE XV

## GENERAL PROVISIONS

Section 15.01. **Addresses and Notice**. Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written or electronic communication (including by telecopy, facsimile, electronic mail or commercial courier service) to the Partner or Assignee at the address set forth in the Ownership Schedule or such other address of which the Partner shall notify the General Partner in writing.

Section 15.02. **Titles and Captions**. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.03. **Pronouns and Plurals**. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and *vice versa*.

Section 15.04. **Further Action**. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.05. **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.06. **Waiver**.

(a) No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

(b) The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time.

Section 15.07. **Counterparts**. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when so executed shall constitute one and the same binding agreement between the parties. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. The words "execution," signed," "signature," and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.



Section 15.08. **Applicable Law**. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

Section 15.09. **Entire Agreement**. This Agreement, together with the Tax Receivables Agreement, contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership.

Section 15.10. **Invalidity of Provisions**. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.11. **No Partition**. No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.12. **No Third-Party Rights Created Hereby**. The provisions of this Agreement are solely for the purpose of defining the interests of the Partners, *inter se*; and no other person, firm or entity (*i.e.*, a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Partnership (other than as expressly set forth herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.



Section 15.13. **No Rights as Stockholders of the Parent**. Nothing contained in this Agreement shall be construed as conferring upon the Holders of Partnership Units any rights whatsoever as stockholders of the Parent, including without limitation any right to receive dividends or other distributions made to stockholders of the Parent, or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Parent or any other matter.

Section 15.14. **Creditors**. Other than as expressly set forth herein with respect to Indemnitees, none of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Partnership.

[*signature page follows*]



IN WITNESS WHEREOF, this First Amended and Restated Agreement of Limited Partnership has been executed as of the date first written above.

GENERAL PARTNER:

PHCC GP, LLC, a Delaware limited liability company

By: Preston Hollow Community Capital, Inc., a Maryland corporation

By: _____
Name: Jim Thompson
Title: Chief Executive Officer

Parent:

PRESTON HOLLOW COMMUNITY CAPITAL, INC., a Maryland corporation

By: _____

Name: Jim Thompson
Title: Chief Executive Officer

ALL LIMITED PARTNERS LISTED ON THE OWNERSHIP SCHEDULE

PHCC GP, LLC, a Delaware limited liability company, as attorney-in-fact for the Limited Partners

By: Preston Hollow Community Capital, Inc., a Maryland corporation

By: _____
Name: Jim Thompson
Title: Chief Executive Officer

*[Signature Page to OP Agreement]*

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**EXHIBIT A**

**NOTICE OF REDEMPTION**

Preston Hollow Community Capital, Inc.
To: 1717 Main Street, Suite 3900
Dallas, Texas 75201

The undersigned Limited Partner hereby tenders for Redemption _____ Class A OP Units in PHCC OP, LP (the "**Operating Partnership**") in accordance with the terms of the First Amended and Restated Agreement of Limited Partnership of the Operating Partnership as amended from time to time(the "**LPA**"), and the Redemption rights referred to therein. The undersigned Limited Partner:

(a) undertakes (i) to surrender such Class A OP Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, with a copy to Parent, prior to the Specified Redemption Date, the documentation, instruments and information required under the LPA;

(b) directs that the certified check representing the Cash Amount, or the Parent Class A Stock Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned is a Limited Partner,

(ii) the undersigned Limited Partner has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such Class A OP Units, free and clear of the rights or interests of any other person or entity,

(iii) the undersigned Limited Partner has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Class A OP Units as provided herein, and

(iv) the undersigned Limited Partner has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that the undersigned Limited Partner will continue to own such Class A OP Units until and unless either (1) such Class A OP Units are acquired by the Parent or Partnership pursuant to the LPA or (2) such redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the LPA.

Dated:_____

Name of Limited Partner
(Exact Name as Registered with the Partnership):

_____

_____
(Signature of Limited Partner)

_____
(Street Address)

_____
(City) (State) (Zip)

State of )

County of ) ss.:

On _____, 20__ before me, a Notary Public, personally appeared _____ known to me or proved to me on the basis of satisfactory evidence to be the individual or individuals described in and who executed the foregoing instrument, and acknowledged to me that said individual or individuals executed the same in his/her capacity, and that by his/her signatures on the instrument, the individual or individuals, or the persons on behalf of the individual or individuals acted, executed the instrument.

_____

Issue Check Payable/shares of Parent Class A Stock to: _____

Name: _____

Social security or identifying number: _____



**EXHIBIT B**

**NOTICE OF ELECTION BY PARTNER TO CONVERT LTIP UNITS INTO CLASS A OP UNITS**

The undersigned Holder of LTIP Units hereby irrevocably (i) elects to convert the number of LTIP Units in PHCC OP, LP, a Delaware limited partnership (the "**Partnership**") set forth below into Class A OP Units in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of the Partnership, dated as of [•], 2021; and (ii) directs that any cash in lieu of Class A OP Units that may be deliverable upon such conversion be delivered to the address specified below. The undersigned hereby represents, warrants, and certifies that the undersigned (i) is a Limited Partner; (ii) has, and at the closing of the conversion will have, good, marketable and unencumbered title to such LTIPs Units, free and clear of the rights or interests of any other person or entity; (iii) has, and at the closing of the conversion will have, the full right, power and authority to tender and surrender such LTIP Units as provided herein;

and (iv) has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender.

Name of Holder _____

(Please Print: Exact Name as Registered with Partnership)

Number of LTIP Units to be Converted: _____

Date of this Notice: _____

Signature of Holder: _____

(Sign Exact Name as Registered with Partnership)

_____

(Street Address)

_____

(City) (State) (Zip Code)

Signature Guaranteed by: _____



**EXHIBIT C**

**NOTICE OF ELECTION BY PARTNERSHIP TO FORCE CONVERSION OF LTIP UNITS INTO CLASS A OP UNITS**

PHCC OP, LP, a Delaware limited partnership (the "**Partnership**") hereby irrevocably elects to cause the number of LTIP Units held by the Holder of LTIP Units set forth below to be converted into Class A OP Units in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of the Partnership.

Name of Holder _____

Number of LTIP Units to be Converted: _____

Date of this Notice: _____

**Exhibit 10.4**

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**
**FORM OF 2021 EQUITY INCENTIVE PLAN**

1. **Purpose**. The purpose of the Preston Hollow Community Capital, Inc. 2021 Equity Incentive Plan is to provide a means through which the Company and the other members of the Company Group may attract and retain key personnel and to provide a means whereby directors, officers, employees, consultants and advisors of the Company and the other members of the Company Group can acquire and maintain an equity interest in the Company or in the Partnership, or be paid incentive compensation, including incentive compensation measured by reference to the value of Common Stock, thereby strengthening their commitment to the welfare of the Company Group and aligning their interests with those of the Company's stockholders.

2. **Definitions**. The following definitions shall be applicable throughout the Plan.

(a) "**Absolute Share Limit**" has the meaning given to such term in Section 5(b) of the Plan.

(b) "**Adjustment Event**" has the meaning given to such term in Section 13(a) of the Plan.

(c) "**Affiliate**" means any Person that directly or indirectly controls, is controlled by or is under common control with the Company. The term "**control**" (including, with correlative meaning, the terms "**controlled by**" and "**under common control with**"), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting or other securities, by contract or otherwise.

(d) "**Award**" means, individually or collectively, any Incentive Stock Option, Nonqualified Stock Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, OP Unit, LTIP Unit, Other Equity-Based Award and Cash-Based Incentive Award granted under the Plan.

(e) "**Award Agreement**" means the document or documents by which each Award (other than a Cash-Based Incentive Award) is evidenced.

(f) "**Board**" means the Board of Directors of the Company.

(g) "**Cash-Based Incentive Award**" means an Award denominated in cash that is granted under Section 12 of the Plan.

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(h) "**Cause**" means, as to any Participant, unless the applicable Award Agreement states otherwise, (i) "Cause," as defined in any employment or consulting agreement between the Participant and the Service Recipient in effect at the time of the Participant's Termination; or (ii) in the absence of any such employment or consulting agreement (or the absence of any definition of "Cause" contained therein), the Participant's (A) willful neglect in the performance of the Participant's duties for the Service Recipient or willful or repeated failure or refusal to perform such duties; (B) engagement in conduct in connection with the Participant's employment or service with the Service Recipient, which results in, or could reasonably be expected to result in, material harm to the business or reputation of the Company or any other member of the Company Group; (C) conviction of, or plea of guilty or no contest to, (I) any felony; or (II) any other crime that results in, or could reasonably be expected to result in, material harm to the business or reputation of the Company or any other member of the Company Group; (D) material violation of the written policies of the Service Recipient, including, but not limited to, those relating to sexual harassment or the disclosure or misuse of confidential information, or those set forth in the manuals or statements of policy of the Service Recipient; (E) fraud or misappropriation, embezzlement or misuse of funds or property belonging to the Company or any other member of the Company Group; or (F) act of personal dishonesty that involves personal profit in connection with the Participant's employment or service to the Service Recipient.

(i) "**Change in Control**" means:

(i) the acquisition (whether by purchase, merger, consolidation, combination or other similar transaction) by any Person of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than fifty percent (50%) (on a fully diluted basis) of either (A) the Outstanding Common Stock; or (B) the Outstanding Company Voting Securities; **provided**, **that**, for purposes of the Plan, the following acquisitions shall not constitute a Change in Control: (I) any acquisition by the Company or any Affiliate; (II) any acquisition by any employee benefit plan sponsored or maintained by the Company or any Affiliate; or (III) in respect of an Award held by a particular Participant, any acquisition by the Participant or any group of Persons including the Participant (or any entity controlled by the Participant or any group of Persons including the Participant);

(ii) during any period of twelve (12) months, individuals who, at the beginning of such period, constitute the Board (the "**Incumbent Directors**") cease for any reason to constitute at least a majority of the Board; **provided**, **that** any person becoming a director subsequent to the Effective Date, whose election or nomination for election was approved by a vote of at least two-thirds (⅔) of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; **provided**, **that** no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest, as such terms are used in Rule 14a-12 of Regulation 14A promulgated under the Exchange Act, with respect to directors or as a result of any other actual or threatened solicitation of proxies or consents by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director; or



(iii) the sale, transfer or other disposition of all or substantially all of the assets of the Company Group (taken as a whole) to any Person that is not an Affiliate of the Company.

(j) "**Code**" means the Internal Revenue Code of 1986, as amended, and any successor thereto. Reference in the Plan to any section of the Code shall be deemed to include any regulations or other interpretative guidance under such section, and any amendments or successor provisions to such section, regulations or guidance.

(k) "**Committee**" means the Compensation Committee of the Board or any properly delegated subcommittee thereof or, if no such Compensation Committee or subcommittee thereof exists, the Board.

(l) "**Common Stock**" means the Class A common stock of the Company, par value $0.01 per share (and any stock or other securities into which such Common Stock may be converted or into which it may be exchanged).

(m) "**Company**" means Preston Hollow Community Capital, Inc., a Maryland corporation, and any successor thereto.

(n) "**Company Group**" means, collectively, the Company and its Subsidiaries.

(o) "**Date of Grant**" means the date on which the granting of an Award is authorized, or such other date as may be specified in such authorization.

(p) "**Designated Foreign Subsidiaries**" means all members of the Company Group that are organized under the laws of any jurisdiction or country other than the United States of America that may be designated by the Board or the Committee from time to time.

(q) "**Disability**" means, as to any Participant, unless the applicable Award Agreement states otherwise, (i) "Disability," as defined in any employment or consulting agreement between the Participant and the Service Recipient in effect at the time of the Participant's Termination; or (ii) in the absence of any such employment or consulting agreement (or the absence of any definition of "Disability" contained therein), a condition entitling the Participant to receive benefits under a long-term disability plan of the Service Recipient or other member of the Company Group in which such Participant is eligible to participate, or, in the absence of such a plan, the complete and permanent inability of the Participant by reason of illness or accident to perform the duties of the position at which the Participant was employed

or served when such disability commenced. Any determination of whether Disability exists in the absence of a long-term disability plan shall be made by the Company (or its designee) in its sole and absolute discretion.



(r) "**Effective Date**" means the closing of the Company's initial public offering.

(s) "**Eligible Person**" means any (i) individual employed by any member of the Company Group; **provided**, **that** no such employee covered by a collective bargaining agreement shall be an Eligible Person unless and to the extent that such eligibility is set forth in such collective bargaining agreement or in an agreement or instrument relating thereto; (ii) director or officer of any member of the Company Group; or (iii) consultant or advisor to any member of the Company Group who may be offered securities registrable pursuant to a registration statement on Form S-8 under the Securities Act, who, in the case of each of clauses (i) through (iii) above has entered into an Award Agreement or who has received written notification from the Committee or its designee that they have been selected to participate in the Plan.

(t) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and any successor thereto. Reference in the Plan to any section of (or rule promulgated under) the Exchange Act shall be deemed to include any rules, regulations or other interpretative guidance under such section or rule, and any amendments or successor provisions to such section, rules, regulations or guidance.

(u) "**Exercise Price**" has the meaning given to such term in Section 7(b) of the Plan.

(v) "**Fair Market Value**" means, on a given date, (i) if the Common Stock is listed on a national securities exchange, the closing sales price of the Common Stock reported on the primary exchange on which the Common Stock is listed and traded on such date, or, if there are no such sales on that date, then on the last preceding date on which such sales were reported; (ii) if the Common Stock is not listed on any national securities exchange but is quoted in an inter-dealer quotation system on a last sale basis, the average between the closing bid price and ask price reported on such date, or, if there is no such sale on that date, then on the last preceding date on which a sale was reported; or (iii) if the Common Stock is not listed on a national securities exchange or quoted in an inter-dealer quotation system on a last sale basis, the amount determined by the Committee in good faith to be the fair market value of the Common Stock; **provided**, **that**, as to any Awards granted on or with a Date of Grant of the date of the pricing of the Company's initial public offering, "Fair Market Value" shall be equal to the per share price at which the Common Stock is offered to the public in connection with such initial public offering.

(w) "**GAAP**" has the meaning given to such term in Section 7(d) of the Plan.

(x) "**Immediate Family Members**" has the meaning given to such term in Section 15(b) of the Plan.

(y) "**Incentive Stock Option**" means an Option which is designated by the Committee as an incentive stock option as described in Section 422 of the Code and otherwise meets the requirements set forth in the Plan.



(z) "**Indemnifiable Person**" has the meaning given to such term in Section 4(e) of the Plan.

(aa) "**LTIP Unit**" means a restricted limited partner profits interest in the Partnership, and the term "LTIP Unit" shall have the meaning set forth in the Partnership Agreement.

(bb) "**Nonqualified Stock Option**" means an Option which is not designated by the Committee as an Incentive Stock Option.

(cc) "**Non-Employee Director**" means a member of the Board who is not an employee of any member of the Company Group.

(dd) "**Option**" means an Award granted under Section 7 of the Plan.

(ee) "**Option Period**" has the meaning given to such term in Section 7(c) of the Plan.

(ff) "**OP Unit**" means a unit representing a limited partnership interest in the Partnership, and the term "OP Unit" shall have the meaning set forth in the Partnership Agreement.

(gg) "**Other Equity-Based Award**" means an Award that is not an Option, Stock Appreciation Right, Restricted Stock, Restricted Stock Unit, LTIP Unit or OP Unit that is granted under Section 10 of the Plan and is (i) payable by delivery of Common Stock, and/or (ii) measured by reference to the value of Common Stock.

(hh) "**Outstanding Common Stock**" means the then-outstanding shares of Class A common stock of the Company, par value $0.01 per share, taking into account as outstanding for this purpose such shares of Common Stock that would be issuable upon the conversion or exchange of vested OP Units and LTIP Units, convertible stock, debt or other securities (including shares issuable upon the conversion of vested equity awards granted under prior plans maintained by the Company or its Affiliates).

(ii) "**Outstanding Company Voting Securities**" means the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of members of the Board.

(jj) "**Participant**" means an Eligible Person who has been selected by the Committee to participate in the Plan and to receive an Award pursuant to the Plan.

(kk) "**Partnership**" means PHCC OP, L.P., a Delaware limited partnership, and any successor thereto.

(ll) "**Partnership Agreement**" means the First Amended and Restated Agreement of Limited Partnership of PHCC OP, L.P., dated as of the date of the closing of the Company's initial public offering, as it may be amended, supplemented or restated from time to time in accordance with its terms.



(mm) "**Performance Criteria**" means specific levels of performance of the Company (and/or one or more of the Company's Affiliates, divisions or operational and/or business units, business segments, administrative departments, or any combination of the foregoing) or any Participant, which may be determined in accordance with GAAP or on a non-GAAP basis including, but not limited to, one or more of the following measures: (i) terms relative to a peer group or index; (ii) basic, diluted, or adjusted earnings per share; (iii) sales or revenue; (iv) earnings before interest, taxes, and other adjustments (in total or on a per share basis); (v) cash available for distribution; (vi) basic or adjusted net income; (vii) returns on equity, assets, capital, revenue or similar measure; (viii) level and growth of dividends; (ix) the price or increase in price of Common Stock; (x) total shareholder return; (xi) total assets; (xii) growth in assets, new originations of assets, or financing of assets; (xiii) equity market capitalization; (xiv) reduction or other quantifiable goal with respect to general and/or specific expenses; (xv) equity capital raised; (xvi) mergers, acquisitions, increase in enterprise value of Affiliates, Subsidiaries, divisions or business units or sales of assets of Affiliates, Subsidiaries, divisions or business units or sales of assets; and (xvii) any combination of the foregoing. Any one or more of the Performance Criteria may be stated as a percentage of another Performance Criteria, or used on an absolute or relative basis to measure the performance of the Company and/or one or more Affiliates as a whole or any divisions or operational and/or business units, business segments, administrative departments of the Company and/or one or more Affiliates or any combination thereof, as the Committee may deem appropriate, or any of the above Performance Criteria may be compared to the performance of a selected group of comparison companies, or a published or special index that the Committee, in its sole discretion, deems appropriate, or as compared to various stock market indices.

(nn) "**Permitted Transferee**" has the meaning given to such term in Section 15(b) of the Plan.

(oo) "**Person**" means any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act).

(pp) "**Plan**" means this Preston Hollow Community Capital, Inc. 2021 Equity Incentive Plan, as it may be amended and/or restated from time to time.

(qq) "**Qualifying Director**" means a person who is, with respect to actions intended to obtain an exemption from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 under the Exchange Act, a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act.

(rr) "**Restricted Period**" means the period of time determined by the Committee during which an Award is subject to restrictions, including vesting conditions.

(ss) "**Restricted Stock**" means Common Stock, subject to certain specified restrictions (which may include, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 9 of the Plan.



(tt) "**Restricted Stock Unit**" means an unfunded and unsecured promise to deliver shares of Common Stock, cash, other securities or other property, subject to certain restrictions (which may include, without limitation, a requirement that the Participant remain continuously employed or provide continuous services for a specified period of time), granted under Section 9 of the Plan.

(uu) "**SAR**" means a stock appreciation right as described in Section 8 of the Plan.

(vv) "**SAR Period**" has the meaning given to such term in Section 8(c) of the Plan.

(ww) "**Securities Act**" means the Securities Act of 1933, as amended, and any successor thereto. Reference in the Plan to any section of (or rule promulgated under) the Securities Act shall be deemed to include any rules, regulations or other interpretative guidance under such section or rule, and any amendments or successor provisions to such section, rules, regulations or guidance.

(xx) "**Service Recipient**" means, with respect to a Participant holding a given Award, the member of the Company Group by which the original recipient of such Award is, or following a Termination was most recently, principally employed or to which such original recipient provides, or following a Termination was most recently providing, services, as applicable.

(yy) "**Stock Appreciation Right**" or "**SAR**" means an Award granted under Section 8 of the Plan.

(zz) "**Strike Price**" has the meaning given to such term in Section 8(b) of the Plan.

(aaa) "**Subsidiary**" means, with respect to any specified Person:

(i) any corporation, association or other business entity of which more than fifty percent (50%) of the total voting power of shares of such entity's voting securities (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(ii) any partnership (or any comparable foreign entity) (A) the sole general partner (or functional equivalent thereof) or the managing general partner of which is such Person or Subsidiary of such Person or (B) the only general partners (or functional equivalents thereof) of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

(bbb) "**Substitute Award**" has the meaning given to such term in Section 5(e) of the Plan.

(ccc) "**Sub-Plans**" means any sub-plan to the Plan that has been adopted by the Board or the Committee for the purpose of permitting the offering of Awards to employees of certain Designated Foreign Subsidiaries or otherwise outside the United States of America, with each such sub-plan designed to comply with local laws applicable to offerings in such foreign jurisdictions. Although any Sub-Plan may be designated a separate and independent plan from the Plan in order to comply with applicable local laws, the Absolute Share Limit and the other limits specified in Section 5(b) shall apply in the aggregate to the Plan and any Sub-Plan adopted hereunder.

(ddd) "**Termination**" means the termination of a Participant's employment or service, as applicable, with the Service Recipient for any reason (including death).

3. **Effective Date; Duration**. The Plan shall be effective as of the Effective Date. The expiration date of the Plan, on and after which date no Awards may be granted hereunder, shall be the tenth (10th) anniversary of the Effective Date; **provided**, **that** such expiration shall not affect Awards then outstanding, and the terms and conditions of the Plan shall continue to apply to such Awards.

4. **Administration**.

(a) **General**. The Committee shall administer the Plan. To the extent required to comply with the provisions of Rule 16b-3 promulgated under the Exchange Act (if the Board is not acting as the Committee under the Plan), it is intended that each member of the Committee shall, at the time such member takes any action with respect to an Award under the Plan that is intended to qualify for the exemptions provided by Rule 16b-3 promulgated under the Exchange Act, be a Qualifying Director. However, the fact that a Committee member shall fail to qualify as a Qualifying Director shall not invalidate any Award granted by the Committee that is otherwise validly granted under the Plan.

(b) **Committee Authority**. Subject to the provisions of the Plan and applicable law, the Committee shall have the sole and plenary authority, in addition to other express powers and authorizations conferred on the Committee by the Plan, to (i) designate Participants; (ii) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of shares of Common Stock to be covered by, or with respect to which payments, rights, or other matters are to be calculated in connection with, Awards; (iv) determine the terms and conditions of any Award; (v) determine whether, to what extent, and under what circumstances Awards may be settled in, or exercised for, cash, shares of Common Stock, LTIP Units or OP Units, as applicable, other securities, other Awards or other property, or cancelled, forfeited, or suspended and the method or methods by which Awards may be settled, exercised, cancelled, forfeited, or suspended; (vi) determine whether, to what extent, and under what circumstances the delivery of cash, shares of Common Stock, other securities, other Awards or other property and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the Participant or of the Committee; (vii) interpret, administer, reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan and any instrument or agreement relating to, or Award granted under, the Plan; (viii) establish, amend, suspend, or waive any rules and regulations and appoint such agents as the Committee shall deem appropriate for the proper administration of the Plan; (ix) adopt Sub-Plans; and (x) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan.



(c) **Delegation**. Except to the extent prohibited by applicable law or the applicable rules and regulations of any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or traded, the Committee may allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it. Any such allocation or delegation may be revoked by the Committee at any time. Without limiting the generality of the foregoing, the Committee may delegate to one or more officers of any member of the Company Group, the authority to act on behalf of the Committee with respect to any matter, right, obligation, or election which is the responsibility of, or which is allocated to, the Committee herein, and which may be so delegated as a matter of law, except with respect to grants of Awards to persons (i) who are Non-Employee Directors, or (ii) who are subject to Section 16 of the Exchange Act.

(d) **Finality of Decisions**. Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan, any Award or any Award Agreement shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive and binding upon all Persons, including, without limitation, any member of the Company Group, any Participant, any holder or beneficiary of any Award, and any stockholder of the Company.

(e) **Indemnification**. No member of the Board, the Committee or any employee or agent of any member of the Company Group (each such Person, an "**Indemnifiable Person**") shall be liable for any action taken or omitted to be taken or any determination made with respect to the Plan or any Award hereunder (unless constituting fraud or a willful criminal act or omission). Each Indemnifiable Person shall be indemnified and held harmless by the Company against and from any loss, cost, liability, or expense (including attorneys' fees) that may be imposed upon or incurred by such Indemnifiable Person in connection with or resulting from any action, suit or proceeding to which such Indemnifiable Person may be a party or in which such Indemnifiable Person may be involved by reason of any action taken or omitted to be taken or determination made with respect to the Plan or any Award hereunder and against and from any and all amounts paid by such Indemnifiable Person with the Company's approval, in settlement thereof, or paid by such Indemnifiable Person in satisfaction of any judgment in any such action, suit or proceeding against such Indemnifiable Person, and the Company shall advance to such Indemnifiable Person any such expenses promptly upon written request (which request shall include an undertaking by the Indemnifiable Person to repay the amount of such advance if it shall ultimately be determined, as provided below, that the Indemnifiable Person is not entitled to be indemnified); **provided**, **that** the Company shall have the right, at its own expense, to assume and defend any such action, suit or proceeding and once the Company gives notice of its intent to assume the defense, the Company shall have sole control over such defense with counsel of the Company's choice. The foregoing right of indemnification shall not be available to an Indemnifiable Person to the extent that a final judgment or other final adjudication (in either case not subject to further appeal) binding upon such Indemnifiable Person determines that the acts, omissions or determinations of such Indemnifiable Person giving rise to the indemnification claim resulted from such Indemnifiable Person's fraud or willful criminal act or omission or that such right of indemnification is otherwise prohibited by law or by the organizational documents of any member of the Company Group. The foregoing right of indemnification shall not be exclusive of or otherwise supersede any other rights of indemnification to which such Indemnifiable Persons may be entitled under the organizational documents of any member of the Company Group, as a matter of law, under an individual indemnification agreement or contract or otherwise, or any other power that the Company may have to indemnify such Indemnifiable Persons or hold such Indemnifiable Persons harmless.



(f) **Board Authority**. Notwithstanding anything to the contrary contained in the Plan, the Board may, in its sole discretion, at any time and from time to time, grant Awards and administer the Plan with respect to any Awards. Any such actions by the Board shall be subject to the applicable rules of the securities exchange or inter-dealer quotation system on which the Common Stock is listed or quoted. In any such case, the Board shall have all the authority granted to the Committee under the Plan.

5. **Grant of Awards; Shares Subject to the Plan; Limitations**.

(a) **Grants**. The Committee may, from time to time, grant Awards to one or more Eligible Persons. All Awards granted under the Plan shall vest and become exercisable in such manner and on such date or dates or upon such event or events as determined by the Committee, including, without limitation, attainment of Performance Criteria.

(b) **Share Reserve and Limits**. Awards granted under the Plan shall be subject to the following limitations: (i) subject to Section 13 of the Plan, no more than 17,850,015 shares of Common Stock (the "**Absolute Share Limit**") shall be available for Awards under the Plan, assuming, if applicable, the conversion of all OP Units and LTIP Units granted hereunder into shares of Common Stock; (ii) subject to Section 13 of the Plan, no more than the number of shares of Common Stock equal to the Absolute Share Limit may be issued in the aggregate pursuant to the exercise of Incentive Stock Options granted under the Plan; and (iii) the maximum number of shares of Common Stock subject to Awards granted during a single fiscal year to any Non-Employee Director, taken together with any cash fees paid to such Non-Employee Director during the fiscal year, shall not exceed $1,000,000 in total value (calculating the value of any such Awards based on the grant date fair value of such Awards for financial reporting purposes).

(c) **Share Counting**. Other than with respect to Substitute Awards, to the extent that an Award expires or is cancelled, forfeited, or terminated without issuance to the Participant of the full number of shares of Common Stock to which the Award related, the unissued shares will again be available for grant under the Plan. Shares of Common Stock shall be deemed to have been issued in settlement of Awards if the Fair Market Value equivalent of such shares is paid in cash in connection with such settlement; **provided**, **that** no shares shall be deemed to have been issued in settlement of a SAR or Restricted Stock Unit that provides for settlement only in cash

and settles only in cash or in respect of any Cash-Based Incentive Award. In no event shall shares (i) tendered or withheld on exercise of Options or other Awards for the payment of the exercise or purchase price or withholding taxes, (ii) not issued upon the settlement of a SAR that by the terms of the Award Agreement would settle in shares of Common Stock (or could settle in shares of Common Stock), or (iii) purchased on the open market with cash proceeds from the exercise of Options, again become available for other Awards under the Plan.



(d) **Source of Shares**. Shares of Common Stock issued by the Company in settlement of Awards may be authorized and unissued shares, shares held in the treasury of the Company, shares purchased on the open market or by private purchase or a combination of the foregoing.

(e) **Substitute Awards**. Awards may, in the sole discretion of the Committee, be granted under the Plan in assumption of, or in substitution for, outstanding awards previously granted by an entity directly or indirectly acquired by the Company or with which the Company combines ("**Substitute Awards**"). Substitute Awards shall not be counted against the Absolute Share Limit; **provided**, **that** Substitute Awards issued in connection with the assumption of, or in substitution for, outstanding options intended to qualify as "incentive stock options" within the meaning of Section 422 of the Code shall be counted against the aggregate number of shares of Common Stock available for Awards of Incentive Stock Options under the Plan. Subject to applicable stock exchange requirements, available shares under a stockholder-approved plan of an entity directly or indirectly acquired by the Company or with which the Company combines (as appropriately adjusted to reflect the acquisition or combination transaction) may be used for Awards under the Plan and shall not reduce the number of shares of Common Stock available for issuance under the Plan.

6. **Eligibility**. Participation in the Plan shall be limited to Eligible Persons.

7. **Options**.

(a) **General**. Each Option granted under the Plan shall be evidenced by an Award Agreement, which agreement need not be the same for each Participant. Each Option so granted shall be subject to the conditions set forth in this Section 7, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement. All Options granted under the Plan shall be Nonqualified Stock Options unless the applicable Award Agreement expressly states that the Option is intended to be an Incentive Stock Option. Incentive Stock Options shall be granted only to Eligible Persons who are employees of a member of the Company Group, and no Incentive Stock Option shall be granted to any Eligible Person who is ineligible to receive an Incentive Stock Option under the Code. No Option shall be treated as an Incentive Stock Option unless the Plan has been approved by the stockholders of the Company in a manner intended to comply with the stockholder approval requirements of Section 422(b)(1) of the Code; **provided**, **that** any Option intended to be an Incentive Stock Option shall not fail to be effective solely on account of a failure to obtain such approval, but rather such Option shall be treated as a Nonqualified Stock Option unless and until such approval is obtained. In the case of an Incentive Stock Option, the terms and conditions of such grant shall be subject to, and comply with, such rules as may be prescribed by Section 422 of the Code. If for any reason an Option intended to be an Incentive Stock Option (or any portion thereof) shall not qualify as an Incentive Stock Option, then, to the extent of such nonqualification, such Option or portion thereof shall be regarded as a Nonqualified Stock Option appropriately granted under the Plan.

(b) **Exercise Price**. Except as otherwise provided by the Committee in the case of Substitute Awards, the exercise price ("**Exercise Price**") per share of Common Stock for each Option shall not be less than one hundred percent (100%) of the Fair Market Value of such share (determined as of the Date of Grant); **provided**, **that**, in the case of an Incentive Stock Option granted to an employee who, at the time of the grant of such Option, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of any member of the Company Group, the Exercise Price per share shall be no less than one hundred ten percent (110%) of the Fair Market Value per share on the Date of Grant.



(c) **Vesting and Expiration**.

(i) Options shall vest and become exercisable in such manner and on such date or dates or upon such event or events as determined by the Committee.

(ii) Options shall expire upon a date determined by the Committee, not to exceed ten (10) years from the Date of Grant (the "**Option Period**"); **provided**, **that**, if the Option Period (other than in the case of an Incentive Stock Option) would expire at a time when trading in the shares of Common Stock is prohibited by the Company's insider trading policy (or Company-imposed "blackout period"), then the Option Period shall be automatically extended until the thirtieth (30th) day following the expiration of such prohibition. Notwithstanding the foregoing, in no event shall the Option Period exceed five (5) years from the Date of Grant in the case of an Incentive Stock Option granted to a Participant who on the Date of Grant owns stock representing more than ten percent (10%) of the voting power of all classes of stock of any member of the Company Group.

(d) **Method of Exercise and Form of Payment**. No shares of Common Stock shall be issued pursuant to any exercise of an Option until payment in full of the Exercise Price therefor is received by the Company and the Participant has paid to the Company an amount equal to any Federal, state, local and non-U.S. income, employment and any other applicable taxes required to be withheld. Options which have become exercisable may be exercised by delivery of written or electronic notice of exercise to the Company (or telephonic instructions to the extent provided by the Committee) in accordance with the terms of the Option accompanied by payment of the Exercise Price. The Exercise Price shall be payable: (i) in cash, check, cash equivalent and/or shares of Common Stock valued at the Fair Market Value at the time the Option is exercised (including, pursuant to procedures approved by the Committee, by means of attestation of ownership of a sufficient number of shares of Common Stock in lieu of actual issuance of such shares to the Company); **provided**, **that** such shares of Common Stock are not subject to any pledge or other security interest and have been held by the Participant for at least six (6) months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment applying generally accepted accounting principles ("**GAAP**")); or (ii) by such other method as the Committee may permit, in its sole discretion, including, without limitation (A) in other property having a fair market value on the date of exercise equal to the Exercise Price; (B) if there is a public market for the shares of Common Stock at such time, by means of a broker-assisted "cashless exercise" pursuant to which the Company is delivered (including telephonically to the extent permitted by the Committee) a copy of irrevocable instructions to a stockbroker to sell the shares of Common Stock otherwise issuable upon the exercise of the Option and to deliver promptly to the Company an amount equal to the Exercise Price; or (C) a "net exercise" procedure effected by withholding the minimum number of shares of Common Stock otherwise issuable in respect of an Option that are needed to pay the Exercise Price. Any fractional shares of Common Stock shall be settled in cash.



(e) **Notification upon Disqualifying Disposition of an Incentive Stock Option**. Each Participant awarded an Incentive Stock Option under the Plan shall notify the Company in writing immediately after the date the Participant makes a disqualifying disposition of any Common Stock acquired pursuant to the exercise of such Incentive Stock Option. A disqualifying disposition is any disposition (including, without limitation, any sale) of such Common Stock before the later of (i) the date that is two (2) years after the Date of Grant of the Incentive Stock Option, or (ii) the date that is one (1) year after the date of exercise of the Incentive Stock Option. The Company may, if determined by the Committee and in accordance with procedures established by the Committee, retain possession, as agent for the applicable Participant, of any Common Stock acquired pursuant to the exercise of an Incentive Stock Option until the end of the period described in the preceding sentence, subject to complying with any instructions from such Participant as to the sale of such Common Stock.

(f) **Compliance With Laws, etc**. Notwithstanding the foregoing, in no event shall a Participant be permitted to exercise an Option in a manner which the Committee determines would violate the Sarbanes-Oxley Act of 2002, as it may be amended from time to time, or any other applicable law or the applicable rules and regulations of the Securities and Exchange Commission or the applicable rules and regulations of any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or traded.

8. **Stock Appreciation Rights**.

(a) **General**. Each SAR granted under the Plan shall be evidenced by an Award Agreement. Each SAR so granted shall be subject to the conditions set forth in this Section 8, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement. Any Option granted under the Plan may include tandem SARs. The Committee also may award SARs to Eligible Persons independent of any Option.

(b) **Strike Price**. Except as otherwise provided by the Committee in the case of Substitute Awards, the strike price ("**Strike Price**") per share of Common Stock for each SAR shall not be less than one hundred percent (100%) of the Fair Market Value of such share (determined as of the Date of Grant). Notwithstanding the foregoing, a SAR granted in tandem with (or in substitution for) an Option previously granted shall have a Strike Price equal to the Exercise Price of the corresponding Option.

(c) **Vesting and Expiration**.

(i) A SAR granted in connection with an Option shall become exercisable and shall expire according to the same vesting schedule and expiration provisions as the corresponding Option. A SAR granted independent of an Option shall vest and become exercisable in such manner and on such date or dates or upon such event or events as determined by the Committee; **provided**, **that**, notwithstanding any such vesting dates or events, the Committee may, in its sole discretion, accelerate the vesting of any SAR at any time and for any reason.

(ii) SARs shall expire upon a date determined by the Committee, not to exceed ten (10) years from the Date of Grant (the "**SAR Period**"); **provided**, **that**, if the SAR Period would expire at a time when trading in the shares of Common Stock is prohibited by the Company's insider trading policy (or Company-imposed "blackout period"), then the SAR Period shall be automatically extended until the thirtieth (30th) day following the expiration of such prohibition.



(d) **Method of Exercise**. SARs which have become exercisable may be exercised by delivery of written or electronic notice of exercise to the Company in accordance with the terms of the Award, specifying the number of SARs to be exercised and the date on which such SARs were awarded.

(e) **Payment**. Upon the exercise of a SAR, the Company shall pay to the Participant an amount equal to the number of shares subject to the SAR that is being exercised multiplied by the excess of the Fair Market Value of one (1) share of Common Stock on the exercise date over the Strike Price, less an amount equal to any Federal, state, local and non-U.S. income, employment and any other applicable taxes required to be withheld. The Company shall pay such amount in cash, in shares of Common Stock valued at Fair Market Value, or any combination thereof, as determined by the Committee. Any fractional shares of Common Stock shall be settled in cash.

9. **Restricted Stock and Restricted Stock Units**.

(a) **General**. Each grant of Restricted Stock and Restricted Stock Units shall be evidenced by an Award Agreement. Each Restricted Stock and Restricted Stock Unit so granted shall be subject to the conditions set forth in this Section 9, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement.

(b) **Stock Certificates and Book-Entry; Escrow or Similar Arrangement**. Upon the grant of Restricted Stock, the Committee shall cause a stock certificate registered in the name of the Participant to be issued or shall cause share(s) of Common Stock to be registered in the name of the Participant and held in book-entry form subject to the Company's directions and, if the Committee determines that the Restricted Stock shall be held by the Company or in escrow rather than issued to the Participant pending the release of the applicable restrictions, the Committee may require the Participant to additionally execute and deliver to the Company (i) an escrow agreement satisfactory to the Committee, if applicable; and (ii) the appropriate stock power (endorsed in blank) with respect to the Restricted Stock covered by such agreement. If a Participant shall fail to execute and deliver (in a manner permitted under Section 15(a) of the Plan or as otherwise determined by the Committee) an agreement evidencing an Award of Restricted Stock and, if applicable, an escrow agreement and blank stock power within the amount of time specified by the Committee, the Award shall be null and void. Subject to the restrictions set forth in this Section 9, Section 15(c) of the Plan and the applicable Award Agreement, a Participant generally shall have the rights and privileges of a stockholder as to shares of Restricted Stock, including, without limitation, the right to vote such Restricted Stock. To the extent shares of Restricted Stock are forfeited, any stock certificates issued to the Participant evidencing such shares shall be returned to the Company, and all rights of the Participant to such shares and as a stockholder with respect thereto shall terminate without further obligation on the part of the Company. A Participant shall have no rights or privileges as a stockholder as to Restricted Stock Units.

(c) **Vesting**. Restricted Stock and Restricted Stock Units shall vest, and any applicable Restricted Period shall lapse, in such manner and on such date or dates or upon such event or events as determined by the Committee.

(d) **Issuance of Restricted Stock and Settlement of Restricted Stock Units**.

(i) Upon the expiration of the Restricted Period with respect to any shares of Restricted Stock, the restrictions set forth in the applicable Award Agreement shall be of no further force or effect with respect to such shares, except as set forth in the applicable Award Agreement. If an escrow arrangement is used, upon such expiration, the Company shall issue to the Participant, or the Participant's beneficiary, without charge, the stock certificate (or, if applicable, a notice evidencing a book-entry notation) evidencing the shares of Restricted Stock which have not then been forfeited and with respect to which the Restricted Period has expired (rounded down to the nearest full share). Dividends, if any, that may have been withheld by the Committee and attributable to any particular share of Restricted Stock shall be distributed to the Participant in cash or, in the sole discretion of the Committee, in shares of Common Stock having a Fair Market Value (on the date of distribution) equal to the amount of such dividends, upon the release of restrictions on such share and, if such share is forfeited, the Participant shall have no right to such dividends.

(ii) Unless otherwise provided by the Committee in an Award Agreement or otherwise, upon the expiration of the Restricted Period with respect to any outstanding Restricted Stock Units, the Company shall issue to the Participant or the Participant's beneficiary, without charge, one (1) share of Common Stock (or other securities or other property, as applicable) for each such outstanding Restricted Stock Unit; **provided**, **that** the Committee may, in its sole discretion, elect to (A) pay cash or part cash and part shares of Common Stock in lieu of issuing only shares of Common Stock in respect of such Restricted Stock Units; or (B) defer the issuance of shares of Common Stock (or cash or part cash and part shares of Common Stock, as the case may be) beyond the expiration of the Restricted Period if such extension would not cause adverse tax consequences under Section 409A of the Code. If a cash payment is made in lieu of issuing shares of Common Stock in respect of such Restricted Stock Units, the amount of such payment shall be equal to the Fair Market Value per share of the Common Stock as of the date on which the Restricted Period lapsed with respect to such Restricted Stock Units.

(e) **Legends on Restricted Stock**. Each certificate, if any, or book entry representing Restricted Stock awarded under the Plan, if any, shall bear a legend or book entry notation substantially in the form of the following, in addition to any other information the Company deems appropriate, until the lapse of all restrictions with respect to such shares of Common Stock:

> TRANSFER OF THIS CERTIFICATE AND THE SHARES REPRESENTED HEREBY IS RESTRICTED PURSUANT TO THE TERMS OF THE PRESTON HOLLOW COMMUNITY CAPITAL, INC. 2021 EQUITY INCENTIVE PLAN AND A RESTRICTED STOCK AWARD AGREEMENT BETWEEN PRESTON HOLLOW COMMUNITY CAPITAL, INC. AND PARTICIPANT. A COPY OF SUCH PLAN AND AWARD AGREEMENT IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICES OF PRESTON HOLLOW COMMUNITY CAPITAL, INC.



10. **Other Equity-Based Awards**. The Committee may grant Other Equity-Based Awards under the Plan to Eligible Persons, alone or in tandem with other Awards, in such amounts and dependent on such conditions as the Committee shall from time to time in its sole discretion determine. Each Other Equity-Based Award granted under the Plan shall be evidenced by an Award Agreement and shall be subject to such conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement.

11. **OP Unit Awards and LTIP Unit Awards**. The Committee may grant OP Unit Awards and LTIP Unit Awards. Any OP Units or LTIP Units granted hereunder shall be fully subject to the terms of the Partnership Agreement, and any determinations to be made with respect to OP Units or LTIP Units shall be made in accordance with the terms of the Partnership Agreement.

12. **Cash-Based Incentive Awards**. The Committee may grant Cash-Based Incentive Awards under the Plan to any Eligible Person. Each Cash-Based Incentive Award granted under the Plan shall be evidenced in such form as the Committee may determine from time to time.

13. **Changes in Capital Structure and Similar Events**. Notwithstanding any other provision in the Plan to the contrary, the following provisions shall apply to all Awards granted hereunder (other than Cash-Based Incentive Awards):

(a) **General**. In the event of (i) any dividend (other than regular cash dividends) or other distribution (whether in the form of cash, shares of Common Stock, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, split-off, spin-off, combination, repurchase or exchange of shares of Common Stock or other securities of the Company, issuance of warrants or other rights to acquire shares of Common Stock or other securities of the Company, or other similar corporate transaction or event that affects the shares of Common Stock (including a Change in Control); or (ii) unusual or nonrecurring events affecting the Company, including changes in applicable rules, rulings, regulations or other requirements, that the Committee determines, in its sole discretion, could result in substantial dilution or enlargement of the rights intended to be granted to, or available for, Participants (any event in (i) or (ii), an "**Adjustment Event**"), the Committee shall, in respect of any such Adjustment Event, make such proportionate substitution or adjustment, if any, as it deems equitable, to any or all of (A) the Absolute Share Limit, or any other limit applicable under the Plan with respect to the number of Awards which may be granted hereunder; (B) the number of shares of Common Stock or other securities of the Company (or number and kind of other securities or other property) which may be issued in respect of Awards or with respect to which Awards may be granted under the Plan or any Sub-Plan; and (C) the terms of any outstanding Award, including, without limitation, (I) the number of shares of Common Stock or other securities of the Company (or number and kind of other securities or other property) subject to outstanding Awards or to which outstanding Awards relate; (II) the Exercise Price or Strike Price with respect to any Award; or (III) any applicable performance measures (including, without limitation, Performance Criteria); **provided**, **that**, in the case of any "equity restructuring" (within the meaning of the Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor pronouncement thereto)), the Committee shall make an equitable or proportionate adjustment to outstanding Awards to reflect such equity restructuring.



(b) **Change in Control**. Without limiting the foregoing, in connection with any Change in Control, the Committee may, in its sole discretion, provide for any one or more of the following:

(i) substitution or assumption of Awards, or to the extent that the surviving entity (or Affiliate thereof) of such Change in Control does not substitute or assume the Awards, full acceleration of vesting of, exercisability of, or lapse of restrictions on, as applicable, any Awards; **provided**, **that**, with respect to any performance-vested Awards, any such acceleration of vesting, exercisability, or lapse of restrictions shall be based on actual performance through the date of such Change in Control; and

(ii) cancellation of any one or more outstanding Awards and payment to the holders of such Awards that are vested as of such cancellation (including, without limitation, any Awards that would vest as a result of the occurrence of such event but for such cancellation or for which vesting is accelerated by the Committee in connection with such event pursuant to clause (i) above), the value of such Awards, if any, as determined by the Committee (which value, if applicable, may be based upon the price per share of Common Stock received or to be received by other stockholders of the Company in such event), including, without limitation, in the case of an outstanding Option or SAR, a cash payment in an amount equal to the excess, if any, of the Fair Market Value (as of a date specified by the Committee) of the shares of Common Stock subject to such Option or SAR over the aggregate Exercise Price or Strike Price of such Option or SAR (it being understood that, in such event, any Option or SAR having a per share Exercise Price or Strike Price equal to, or in excess of, the Fair Market Value of a share of Common Stock subject thereto may be cancelled and terminated without any payment or consideration therefor).

For purposes of clause (i) above, an award will be considered granted in substitution of an Award if it has an equivalent value (as determined consistent with clause (ii) above) with the original Award, whether designated in securities of the acquiror in such Change in Control transaction (or an Affiliate thereof), or in cash or other property (including in the same consideration that other stockholders of the Company receive in connection with such Change in Control transaction), and retains the vesting schedule applicable to the original Award.

Payments to holders pursuant to clause (ii) above shall be made in cash or, in the sole discretion of the Committee, in the form of such other consideration necessary for a Participant to receive property, cash, or securities (or combination thereof) as such Participant would have been entitled to receive upon the occurrence of the transaction if the Participant had been, immediately prior to such transaction, the holder of the number of shares of Common Stock covered by the Award at such time (less any applicable Exercise Price or Strike Price).

(c) **Other Requirements**. Prior to any payment or adjustment contemplated under this Section 13, the Committee may require a Participant to (i) represent and warrant as to the unencumbered title to the Participant's Awards; (ii) bear such Participant's pro rata share of any post-closing indemnity obligations, and be subject to the same post-closing purchase price adjustments, escrow terms, offset rights, holdback terms, and similar conditions as the other holders of Common Stock, subject to any limitations or reductions as

may be necessary to comply with Section 409A of the Code; and (iii) deliver customary transfer documentation as reasonably determined by the Committee.



(d) **Fractional Shares**. Any adjustment provided under this Section 13 may provide for the elimination of any fractional share that might otherwise become subject to an Award.

(e) **Binding Effect**. Any adjustment, substitution, determination of value or other action taken by the Committee under this Section 13 shall be conclusive and binding for all purposes.

14. **Amendments and Termination**.

(a) **Amendment and Termination of the Plan**. The Board or Committee may amend, alter, suspend, discontinue, or terminate the Plan or any portion thereof at any time; **provided**, **that** no such amendment, alteration, suspension, discontinuance or termination shall be made without stockholder approval if (i) such approval is necessary to comply with any regulatory requirement applicable to the Plan (including, without limitation, as necessary to comply with any rules or regulations of any securities exchange or inter-dealer quotation system on which the securities of the Company may be listed or quoted) or for changes in GAAP to new accounting standards; (ii) it would materially increase the number of securities which may be issued under the Plan (except for increases pursuant to Sections 5 or 13 of the Plan); or (iii) it would materially modify the requirements for participation in the Plan; **provided**, **further**, **that** any such amendment, alteration, suspension, discontinuance or termination that would materially and adversely affect the rights of any Participant or any holder or beneficiary of any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant, holder or beneficiary. Notwithstanding the foregoing, no amendment shall be made to Section 14(c) of the Plan without stockholder approval.

(b) **Amendment of Award Agreements**. The Committee may, to the extent consistent with the terms of the Plan and any applicable Award Agreement, waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate, any Award theretofore granted or the associated Award Agreement, prospectively or retroactively (including after a Participant's Termination); **provided**, **that**, other than pursuant to Section 13, any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially and adversely affect the rights of any Participant with respect to any Award theretofore granted shall not to that extent be effective without the consent of the affected Participant.

(c) **No Repricing**. Notwithstanding anything in the Plan to the contrary, without stockholder approval, except as otherwise permitted under Section 13 of the Plan, (i) no amendment or modification may reduce the Exercise Price of any Option or the Strike Price of any SAR; (ii) the Committee may not cancel any outstanding Option or SAR and replace it with a new Option or SAR (with a lower Exercise Price or Strike Price, as the case may be) or other Award or cash payment that is greater than the intrinsic value (if any) of the cancelled Option or SAR; and (iii) the Committee may not take any other action which is considered a "repricing" for purposes of the stockholder approval rules of any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or quoted.



15. **General**.

(a) **Award Agreements**. Each Award (other than a Cash-Based Incentive Award) under the Plan shall be evidenced by an Award Agreement, which shall be delivered to the Participant to whom such Award was granted and shall specify the terms and conditions of the Award and any rules applicable thereto, including, without limitation, the effect on such Award of the death, Disability or Termination of a Participant, or of such other events as may be determined by the Committee. For purposes of the Plan, an Award Agreement may be in any such form (written or electronic) as determined by the Committee (including, without limitation, a Board or Committee resolution, an employment agreement, a notice, a certificate or a letter) evidencing the Award. The Committee need not require an Award Agreement to be signed by the Participant or a duly authorized representative of the Company.

(b) **Nontransferability**.

(i) Each Award shall be exercisable only by such Participant to whom such Award was granted during the Participant's lifetime, or, if permissible under applicable law, by the Participant's legal guardian or representative. No Award may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by a Participant (unless such transfer is specifically required pursuant to a domestic relations order or by applicable law) other than by will or by the laws of descent and distribution and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall be void and unenforceable against any member of the Company Group; **provided**, **that** the designation of a beneficiary shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance.

(ii) Notwithstanding the foregoing, the Committee may, in its sole discretion, permit Awards (other than Incentive Stock Options) to be transferred by a Participant, without consideration, subject to such rules as the Committee may adopt consistent with any applicable Award Agreement to preserve the purposes of the Plan, to (A) any person who is a "family member" of the Participant, as such term is used in the instructions to Form S-8 under the Securities Act or any successor form of registration statement promulgated by the Securities and Exchange Commission (collectively, the "**Immediate Family Members**"); (B) a trust solely for the benefit of the Participant and the Participant's Immediate Family Members; (C) a partnership or limited liability company whose only partners or stockholders are the Participant and the Participant's Immediate Family Members; or (D) a beneficiary to whom donations are eligible to be treated as "charitable contributions" for federal income tax purposes (each transferee described in clauses (A), (B), (C) and (D) above is hereinafter referred to as a "**Permitted Transferee**"); **provided**, **that** the Participant gives the Committee advance written notice describing the terms and conditions of the proposed transfer and the Committee notifies the Participant in writing that such a transfer would comply with the requirements of the Plan.



(iii) The terms of any Award transferred in accordance with clause (ii) above shall apply to the Permitted Transferee and any reference in the Plan, or in any applicable Award Agreement, to a Participant shall be deemed to refer to the Permitted Transferee, except that (A) Permitted Transferees shall not be entitled to transfer any Award, other than by will or the laws of descent and distribution; (B) Permitted Transferees shall not be entitled to exercise any transferred Option unless there shall be in effect a registration statement on an appropriate form covering the shares of Common Stock to be acquired pursuant to the exercise of such Option if the Committee determines, consistent with any applicable Award Agreement, that such a registration statement is necessary or appropriate; (C) neither the Committee nor the Company shall be required to provide any notice to a Permitted Transferee, whether or not such notice is or would otherwise have been required to be given to the Participant under the Plan or otherwise; and (D) the consequences of a Participant's Termination under the terms of the Plan and the applicable Award Agreement shall continue to be applied with respect to the Participant, including, without limitation, that an Option shall be exercisable by the Permitted Transferee only to the extent, and for the periods, specified in the Plan and the applicable Award Agreement.

(c) **Dividends and Dividend Equivalents**. The Committee may, in its sole discretion, provide a Participant as part of an Award with dividends, dividend equivalents, or similar payments in respect of Awards, payable in cash, shares of Common Stock, other securities, other Awards or other property, on a current or deferred basis, on such terms and conditions as may be determined by the Committee in its sole discretion, including, without limitation, payment directly to the Participant, withholding of such amounts by the Company subject to vesting of the Award or reinvestment in additional shares of Common Stock, Restricted Stock or other Awards. Without limiting the foregoing, unless otherwise provided in the Award Agreement, any dividend otherwise payable in respect of any share of Restricted Stock that remains subject to vesting conditions at the time of payment of such dividend shall be retained by the Company and remain subject to the same vesting conditions as the share of Restricted Stock to which the dividend relates.

(d) **Tax Withholding**.

(i) A Participant shall be required to pay to the Company or one or more of its Subsidiaries, as applicable, an amount in cash (by check or wire transfer) equal to the aggregate amount of any income, employment and/or other applicable taxes that are statutorily required to be withheld in respect of an Award. Alternatively, the Company or any of its Subsidiaries may elect, in its sole discretion, to satisfy this requirement by withholding such amount from any cash compensation or other cash amounts owing to a Participant.

(ii) Without limiting the foregoing, the Committee may (but is not obligated to), in its sole discretion, permit or require a Participant to satisfy, all or any portion of the minimum income, employment and/or other applicable taxes that are statutorily

required to be withheld with respect to an Award by (A) the delivery of shares of Common Stock (which are not subject to any pledge or other security interest) that have been both held by the Participant and vested for at least six (6) months (or such other period as established from time to time by the Committee in order to avoid adverse accounting treatment under applicable accounting standards) having an aggregate Fair Market Value equal to such minimum statutorily required withholding liability (or portion thereof); or (B) having the Company withhold from the shares of Common Stock otherwise issuable or deliverable to, or that would otherwise be retained by, the Participant upon the grant, exercise, vesting or settlement of the Award, as applicable, a number of shares of Common Stock with an aggregate Fair Market Value equal to an amount, subject to clause (iii) below, not in excess of such minimum statutorily required withholding liability (or portion thereof).



(iii) The Committee has full discretion to allow Participants to satisfy, in whole or in part, any additional income, employment and/or other applicable taxes payable by them with respect to an Award by electing to have the Company withhold from the shares of Common Stock otherwise issuable or deliverable to, or that would otherwise be retained by, a Participant upon the grant, exercise, vesting or settlement of the Award, as applicable, shares of Common Stock having an aggregate Fair Market Value that is greater than the applicable minimum required statutory withholding liability (but such withholding may in no event be in excess of the maximum statutory withholding amount(s) in a Participant's relevant tax jurisdictions).

(e) **Data Protection**. By participating in the Plan or accepting any rights granted under it, each Participant consents to the collection and processing of personal data relating to the Participant so that the Company and its Affiliates can fulfill their obligations and exercise their rights under the Plan and generally administer and manage the Plan. This data will include, but may not be limited to, data about participation in the Plan and shares offered or received, purchased, or sold under the Plan from time to time and other appropriate financial and other data (such as the date on which the Awards were granted) about the Participant and the Participant's participation in the Plan.

(f) **No Claim to Awards; No Rights to Continued Employment; Waiver**. No employee of any member of the Company Group, or other Person, shall have any claim or right to be granted an Award under the Plan or, having been selected for the grant of an Award, to be selected for a grant of any other Award. There is no obligation for uniformity of treatment of Participants or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each Participant and may be made selectively among Participants, whether or not such Participants are similarly situated. Neither the Plan nor any action taken hereunder shall be construed as giving any Participant any right to be retained in the employ or service of the Service Recipient or any other member of the Company Group, nor shall it be construed as giving any Participant any rights to continued service on the Board. The Service Recipient or any other member of the Company Group may at any time dismiss a Participant from employment or discontinue any consulting relationship, free from any liability or any claim under the Plan, unless otherwise expressly provided in the Plan or any Award Agreement. By accepting an Award under the Plan, a Participant shall thereby be deemed to have waived any claim to continued exercise or vesting of an Award or to damages or severance entitlement related to non-continuation of the Award beyond the period provided under the Plan or any Award Agreement, except to the extent of any provision to the contrary in any written employment contract or other agreement between the Service Recipient and/or any member of the Company Group and the Participant, whether any such agreement is executed before, on or after the Date of Grant.

(g) **International Participants**. With respect to Participants who reside or work outside of the United States of America, the Committee may, in its sole discretion, amend the terms of the Plan and create or amend Sub-Plans or amend outstanding Awards with respect to such Participants in order to conform such terms with the requirements of local law or to obtain more favorable tax or other treatment for a Participant or any member of the Company Group.



(h) **Designation and Change of Beneficiary**. Each Participant may file with the Committee a written designation of one or more Persons as the beneficiary or beneficiaries, as applicable, who shall be entitled to receive the amounts payable with respect to an Award, if any, due under the Plan upon the Participant's death. A Participant may, from time to time, revoke or change the Participant's beneficiary designation without the consent of any prior beneficiary by filing a new designation with the Committee. The last such designation received by the Committee shall be controlling; **provided**, **that** no designation, or change or revocation thereof, shall be

effective unless received by the Committee prior to the Participant's death, and in no event shall it be effective as of a date prior to such receipt. If no beneficiary designation is filed by a Participant, the beneficiary shall be deemed to be the Participant's spouse or, if the Participant is unmarried at the time of death, the Participant's estate.

(i) **Termination**. Except as otherwise provided in an Award Agreement, unless determined otherwise by the Committee at any point following such event: (i) neither a temporary absence from employment or service due to illness, vacation or leave of absence (including, without limitation, a call to active duty for military service through a Reserve or National Guard unit) nor a transfer from employment or service with one Service Recipient to employment or service with another Service Recipient (or vice-versa) shall be considered a Termination; and (ii) if a Participant undergoes a Termination of employment, but such Participant continues to provide services to the Company Group in a non-employee capacity, such change in status shall not be considered a Termination for purposes of the Plan. Further, unless otherwise determined by the Committee, in the event that any Service Recipient ceases to be a member of the Company Group (by reason of sale, divestiture, spin-off or other similar transaction), unless a Participant's employment or service is transferred to another entity that would constitute a Service Recipient immediately following such transaction, such Participant shall be deemed to have suffered a Termination hereunder as of the date of the consummation of such transaction.

(j) **No Rights as a Stockholder**. Except as otherwise specifically provided in the Plan or any Award Agreement, no Person shall be entitled to the privileges of ownership in respect of shares of Common Stock which are subject to Awards hereunder until such shares have been issued or delivered to such Person.

(k) **Government and Other Regulations**.

(i) The obligation of the Company to settle Awards in shares of Common Stock or other consideration shall be subject to all applicable laws, rules, and regulations, and to such approvals by governmental agencies as may be required. Notwithstanding any terms or conditions of any Award to the contrary, the Company shall be under no obligation to offer to sell or to sell, and shall be prohibited from offering to sell or selling, any shares of Common Stock pursuant to an Award unless such shares have been properly registered for sale pursuant to the Securities Act with the Securities and Exchange Commission or unless the Company has received an opinion of counsel (if the Company has requested such an opinion), satisfactory to the Company, that such shares may be offered or sold without such registration pursuant to an available exemption therefrom and the terms and conditions of such exemption have been fully complied with. The Company shall be under no obligation to register for sale under the Securities Act any of the shares of Common Stock to be offered or sold under the Plan. The Committee shall have the authority to provide that all shares of Common Stock or other securities of any member of the Company Group issued under the Plan shall be subject to such stop-transfer orders and other restrictions as the Committee may deem advisable under the Plan, the applicable Award Agreement, the Federal securities laws, or the rules, regulations and other requirements of the Securities and Exchange Commission, any securities exchange or inter-dealer quotation system on which the securities of the Company are listed or quoted and any other applicable Federal, state, local or non-U.S. laws, rules, regulations and other requirements, and, without limiting the generality of Section 9 of the Plan, the Committee may cause a legend or legends to be put on certificates representing shares of Common Stock or other securities of any member of the Company Group issued under the Plan to make appropriate reference to such restrictions or may cause such Common Stock or other securities of any member of the Company Group issued under the Plan in book-entry form to be held subject to the Company's instructions or subject to appropriate stop-transfer orders. Notwithstanding any provision in the Plan to the contrary, the Committee reserves the right to, at any time, add any additional terms or provisions to any Award granted under the Plan that the Committee, in its sole discretion, deems necessary or advisable in order that such Award complies with the legal requirements of any governmental entity to whose jurisdiction the Award is subject.



(ii) The Committee may cancel an Award or any portion thereof if it determines, in its sole discretion, that legal or contractual restrictions and/or blockage and/or other market considerations would make the Company's acquisition of shares of Common Stock from the public markets, the Company's issuance of Common Stock to the Participant, the Participant's acquisition of Common Stock from the Company and/or the Participant's sale of Common Stock to the public markets, illegal, impracticable or inadvisable. If the Committee determines to cancel all or any portion of an Award in accordance with the foregoing, the Company shall, subject to any limitations or reductions as may be necessary to comply with Section 409A of the Code, (A) pay to the Participant an amount equal to the excess of (I) the aggregate Fair Market Value of the shares of Common Stock subject to such Award or portion thereof cancelled (determined as of the applicable exercise date, or the date that the shares would have been vested or issued, as applicable); over (II) the aggregate Exercise Price or Strike Price (in the case of an Option or SAR, respectively) or any amount payable as a condition of issuance of shares of Common Stock (in the case of any other Award). Such amount shall be delivered to the Participant as soon as practicable

following the cancellation of such Award or portion thereof, or (B) in the case of Restricted Stock, Restricted Stock Units or Other Equity-Based Awards, provide the Participant with a cash payment or equity subject to deferred vesting and delivery consistent with the vesting restrictions applicable to such Restricted Stock, Restricted Stock Units or Other Equity-Based Awards, or the underlying shares in respect thereof.

(l) **No Section 83(b) Elections Without Consent of Company**. Except with respect to OP Units and LTIP Units, no election under Section 83(b) of the Code or under a similar provision of law may be made unless expressly permitted by the terms of the applicable Award Agreement or by action of the Company in writing prior to the making of such election. If a Participant, in connection with the acquisition of shares of Common Stock, OP Units or LTIP Units under the Plan or otherwise, is expressly permitted to make such election and the Participant makes the election, the Participant shall notify the Company of such election within ten (10) days of filing notice of the election with the Internal Revenue Service or other governmental authority, in addition to any filing and notification required pursuant to Section 83(b) of the Code or other applicable provision.



(m) **Payments to Persons Other Than Participants**. If the Committee shall find that any Person to whom any amount is payable under the Plan is unable to care for the Participant's affairs because of illness or accident, or is a minor, or has died, then any payment due to such Person or the Participant's estate (unless a prior claim therefor has been made by a duly appointed legal representative) may, if the Committee so directs the Company, be paid to the Participant's spouse, child, relative, an institution maintaining or having custody of such Person, or any other Person deemed by the Committee to be a proper recipient on behalf of such Person otherwise entitled to payment. Any such payment shall be a complete discharge of the liability of the Committee and the Company therefor.

(n) **Nonexclusivity of the Plan**. Neither the adoption of the Plan by the Committee nor the submission of the Plan to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Committee or Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of equity-based awards otherwise than under the Plan, and such arrangements may be either applicable generally or only in specific cases.

(o) **No Trust or Fund Created**. Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between any member of the Company Group, on the one hand, and a Participant or other Person, on the other hand. No provision of the Plan or any Award shall require the Company, for the purpose of satisfying any obligations under the Plan, to purchase assets or place any assets in a trust or other entity to which contributions are made or otherwise to segregate any assets, nor shall the Company be obligated to maintain separate bank accounts, books, records or other evidence of the existence of a segregated or separately maintained or administered fund for such purposes. Participants shall have no rights under the Plan other than as unsecured general creditors of the Company, except that insofar as they may have become entitled to payment of additional compensation by performance of services, they shall have the same rights as other service providers under general law.

(p) **Reliance on Reports**. Each member of the Committee and each member of the Board shall be fully justified in acting or failing to act, as the case may be, and shall not be liable for having so acted or failed to act in good faith, in reliance upon any report made by the independent public accountant of any member of the Company Group and/or any other information furnished in connection with the Plan by any agent of the Company or the Committee or the Board, other than himself or herself.

(q) **Relationship to Other Benefits**. No payment under the Plan shall be taken into account in determining any benefits under any pension, retirement, profit sharing, group insurance or other benefit plan of the Company except as otherwise specifically provided in such other plan or as required by applicable law.

(r) **Governing Law**. The Plan shall be governed by and construed in accordance with the internal laws of the State of Maryland applicable to contracts made and performed wholly within the State of Maryland, without giving effect to the conflict of laws provisions thereof. EACH PARTICIPANT WHO ACCEPTS AN AWARD IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY SUIT, ACTION, OR OTHER PROCEEDING INSTITUTED BY OR AGAINST SUCH PARTICIPANT IN RESPECT OF THE PARTICIPANT'S RIGHTS OR OBLIGATIONS HEREUNDER.

(s) **Severability**. If any provision of the Plan or any Award or Award Agreement is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be construed or deemed stricken as to such jurisdiction, Person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

(t) **Obligations Binding on Successors**. The obligations of the Company under the Plan shall be binding upon any successor corporation or organization resulting from the merger, consolidation or other reorganization of the Company, or upon any successor corporation or organization succeeding to substantially all of the assets and business of the Company.

(u) **Section 409A of the Code**.

(i) Notwithstanding any provision of the Plan to the contrary, it is intended that the provisions of the Plan comply with Section 409A of the Code, and all provisions of the Plan shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A of the Code. Each Participant is solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on or in respect of such Participant in connection with the Plan (including any taxes and penalties under Section 409A of the Code), and neither the Service Recipient nor any other member of the Company Group shall have any obligation to indemnify or otherwise hold such Participant (or any beneficiary) harmless from any or all of such taxes or penalties. With respect to any Award that is considered "deferred compensation" subject to Section 409A of the Code, references in the Plan to "termination of employment" (and substantially similar phrases) shall mean "separation from service" within the meaning of Section 409A of the Code. For purposes of Section 409A of the Code, each of the payments that may be made in respect of any Award granted under the Plan is designated as a separate payment.

(ii) Notwithstanding anything in the Plan to the contrary, if a Participant is a "specified employee" within the meaning of Section 409A(a)(2)(B)(i) of the Code, no payments in respect of any Awards that are "deferred compensation" subject to Section 409A of the Code and which would otherwise be payable upon the Participant's "separation from service" (as defined in Section 409A of the Code) shall be made to such Participant prior to the date that is six (6) months after the date of such Participant's "separation from service" or, if earlier, the date of the Participant's death. Following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest date permitted under Section 409A of the Code that is also a business day.

(iii) Unless otherwise provided by the Committee in an Award Agreement or otherwise, in the event that the timing of payments in respect of any Award (that would otherwise be considered "deferred compensation" subject to Section 409A of the Code) would be accelerated upon the occurrence of (A) a Change in Control, no such acceleration shall be permitted unless the event giving rise to the Change in Control satisfies the definition of a change in the ownership or effective control of a corporation, or a change in the ownership of a substantial portion of the assets of a corporation pursuant to Section 409A of the Code; or (B) a Disability, no such acceleration shall be permitted unless the Disability also satisfies the definition of "Disability" pursuant to Section 409A of the Code.



(v) **Clawback/Repayment**. All Awards shall be subject to reduction, cancellation, forfeiture or recoupment to the extent necessary to comply with (i) any clawback, forfeiture or other similar policy adopted by the Board or the Committee and as in effect from time to time; and (ii) applicable law. Further, to the extent that the Participant receives any amount in excess of the amount that the Participant should otherwise have received under the terms of the Award for any reason (including, without limitation, by reason of a financial restatement, mistake in calculations or other administrative error), the Participant shall be required to repay any such excess amount to the Company.

(w) **Right of Offset**. The Company will have the right to offset against its obligation to deliver shares of Common Stock (or other property or cash) under the Plan or any Award Agreement any outstanding amounts (including, without limitation, travel and entertainment or advance account balances, loans, repayment obligations under any Awards, or amounts repayable to the Company pursuant to tax equalization, housing, automobile or other employee programs) that the Participant then owes to any member of the Company Group and any amounts the Committee otherwise deems appropriate pursuant to any tax equalization policy or agreement. Notwithstanding the foregoing, if an Award is "deferred compensation" subject to Section 409A of the Code, the Committee will have no right to offset against its obligation to deliver shares of Common Stock (or other property or cash) under the Plan or any Award Agreement

if such offset could subject the Participant to the additional tax imposed under Section 409A of the Code in respect of an outstanding Award.

(x) **Expenses; Titles and Headings**. The expenses of administering the Plan shall be borne by the Company Group. The titles and headings of the sections in the Plan are for convenience of reference only, and in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

**Exhibit 10.5**

# FORM OF INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made and entered into as of the [•] day of [•], 2021 ("Effective Date"), by and between Preston Hollow Community Capital, Inc., a Maryland corporation (the "Company"), and _____ ("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as [a director] [an officer] of the Company and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service; and

WHEREAS, as an inducement to Indemnitee to serve or continue to serve in such capacity, the Company has agreed to indemnify Indemnitee and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings, to the maximum extent permitted by law; and

WHEREAS, the parties by this Agreement desire to set forth their agreement regarding indemnification and advance of expenses;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. For purposes of this Agreement:

(a) "Change in Control" means a change in control of the Company occurring after the Effective Date of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), whether or not the Company is then subject to such reporting requirement; provided, however, that, without limitation, such a Change in Control shall be deemed to have occurred if, after the Effective Date (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 30% or more of the combined voting power of all of the Company's then-outstanding securities entitled to vote generally in the election of directors without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person's attaining such percentage interest; (ii) the Company is a party to a merger, consolidation, sale of assets, plan of liquidation or other reorganization not approved by at least two-thirds of the members of the Board of Directors then in office, as a consequence of which members of the Board of Directors in office immediately prior to such transaction or event constitute less than a majority of the Board of Directors thereafter; or (iii) at any time, a majority of the members of the Board of Directors are not individuals (A) who were directors as of the Effective Date or (B) whose election by the Board of Directors or nomination for election by the Company's stockholders was approved, ratified or recommended by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or whose election or nomination for election was previously so approved.



(b) "Corporate Status" means the status of a person as a present or former director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company. As a clarification and without limiting the circumstances in which Indemnitee may be serving at the request of the Company, service by Indemnitee shall be deemed to be at the request of the Company: (i) if Indemnitee serves or served as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any corporation, partnership, limited liability company, joint venture, trust or other enterprise (1) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (2) the management of which is controlled directly or indirectly by the Company and (ii) if, as a result of Indemnitee's service to the Company or any of its affiliated entities, Indemnitee is subject to duties by, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as deemed fiduciary thereof.

(c) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification and/or advance of Expenses is sought by Indemnitee.

(d) "Effective Date" means the date set forth in the first paragraph of this Agreement.

(e) "Expenses" means any and all reasonable and out-of-pocket attorneys' fees and costs, retainers, court costs, arbitration and mediation costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties and any other disbursements or expenses incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in or otherwise participating in a Proceeding. Expenses shall also include Expenses incurred in connection with any appeal resulting from any Proceeding including, without limitation, the premium, security for and other costs relating to any cost bond, supersedeas bond or other appeal bond or its equivalent.

(f) "Independent Counsel" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement or of other indemnitees under similar indemnification agreements), or (ii) any other party to or participant or witness in the Proceeding giving rise to a claim for indemnification or advance of Expenses hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.



(g) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing, claim, demand or discovery request or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative (formal or informal) nature, including any appeal therefrom, except one pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee. If Indemnitee reasonably believes that a given situation may lead to or culminate in the institution of a Proceeding, such situation shall also be considered a Proceeding.

Section 2. Services by Indemnitee. Indemnitee serves or will serve in the capacity or capacities set forth in the first WHEREAS clause above. However, this Agreement shall not impose any independent obligation on Indemnitee or the Company to continue Indemnitee's service to the Company. This Agreement shall not be deemed an employment contract between the Company (or any other entity) and Indemnitee.

Section 3. General. The Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) otherwise to the maximum extent permitted by Maryland law in effect on the Effective Date and as amended from time to time; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the Effective Date. The rights of Indemnitee provided in this Section 3 shall include, without limitation, the rights set forth in the other sections of this Agreement, including any additional indemnification permitted by the Maryland General Corporation Law (the "MGCL"), including, without limitation, Section 2-418 of the MGCL.

Section 4. Standard for Indemnification. If, by reason of service in Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall indemnify Indemnitee against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with any such Proceeding unless it is established that (a) the act or omission of Indemnitee was material to the matter giving rise to the Proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) Indemnitee actually received an improper personal benefit in money, property or services or (c) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

Section 5. Certain Limits on Indemnification. Notwithstanding any other provision of this Agreement (other than Section 6), Indemnitee shall not be entitled to:

(a) indemnification hereunder if the Proceeding was one by or in the right of the Company and Indemnitee is adjudged, in a final adjudication of the Proceeding not subject to further appeal, to be liable to the Company;



(b) indemnification hereunder if Indemnitee is adjudged, in a final adjudication of the Proceeding not subject to further appeal, to be liable on the basis that personal benefit in money, property or services was improperly received in any Proceeding charging improper personal benefit to Indemnitee, whether or not involving action in the Indemnitee's Corporate Status; or

(c) indemnification or advance of Expenses hereunder if the Proceeding was brought by Indemnitee, unless: (i) the Proceeding was brought to enforce indemnification under this Agreement, and then only to the extent in accordance with and as authorized by Section 12 of this Agreement, or (ii) the Company's charter or Bylaws, a resolution of the shareholders entitled to vote generally in the election of directors or of the board of directors of the Company (the "Board of Directors") or an agreement approved by the Board of Directors to which the Company is a party expressly provide otherwise.

Section 6. Court-Ordered Indemnification. Notwithstanding any other provision of this Agreement, a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification of Indemnitee by the Company in the following circumstances:

(a) if such court determines that Indemnitee is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case Indemnitee shall be entitled to recover the Expenses of securing such reimbursement; or

(b) if such court determines that Indemnitee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not Indemnitee (i) has met the standards of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, the court may order such indemnification as the court shall deem proper without regard to any limitation on such court-ordered indemnification contemplated by Section 2-418(d)(2)(ii) of the MGCL.

Section 7. Indemnification for Expenses of an Indemnitee Who is Wholly or Partially Successful. Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee was or is, by reason of service in Indemnitee's Corporate Status, made a party to (or otherwise becomes a participant in) any Proceeding and is successful, on the merits or otherwise, in the defense of such Proceeding, the Company shall indemnify Indemnitee for all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee under this Section 7 for all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with each such claim, issue or matter, allocated on a reasonable and proportionate basis. For purposes of this Section 7 and, without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.



Section 8. Advance of Expenses for Indemnitee. If, by reason of service in Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall, without requiring a preliminary determination of Indemnitee's ultimate entitlement to indemnification hereunder, advance all Expenses incurred by or on behalf of Indemnitee in connection with such Proceeding. The Company shall make such advance or advances within ten days after the receipt by the Company of a statement or statements requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding and may be in the form of, in the reasonable discretion of the Indemnitee (but without duplication), (a) payment of such Expenses directly to

third parties on behalf of Indemnitee, (b) advance of funds to Indemnitee in an amount sufficient to pay such Expenses or (c) reimbursement to Indemnitee for Indemnitee's payment of such Expenses. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written affirmation by Indemnitee and a written undertaking by or on behalf of Indemnitee, in substantially the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof. To the extent that Expenses advanced to Indemnitee do not relate to a specific claim, issue or matter in the Proceeding, such Expenses shall be allocated on a reasonable and proportionate basis. The undertaking required by this Section 8 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses and without any requirement to post security therefor.

Section 9. Indemnification and Advance of Expenses as a Witness or Other Participant. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is or may be, by reason of service in Indemnitee's Corporate Status, made a witness or otherwise asked to participate in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party, Indemnitee shall be advanced and indemnified against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith within ten days after the receipt by the Company of a statement or statements requesting any such advance or indemnification from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee. In connection with any such advance of Expenses, the Company may require Indemnitee to provide an undertaking and affirmation substantially in the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of execution thereof.

Section 10. Procedure for Determination of Entitlement to Indemnification.

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. Indemnitee may submit one or more such requests from time to time and at such time(s) as Indemnitee deems appropriate in Indemnitee's sole discretion. The officer of the Company receiving any such request from Indemnitee shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that Indemnitee has requested indemnification.



(b) Upon written request by Indemnitee for indemnification pursuant to Section 10(a) above, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall promptly be made in the specific case: (i) if a Change in Control has occurred, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee, which Independent Counsel shall be selected by the Indemnitee and approved by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL, which approval shall not be unreasonably withheld; or (ii) if a Change in Control has not occurred, (A) by a majority vote of the Disinterested Directors or, by the majority vote of a group of Disinterested Directors designated by the Disinterested Directors to make the determination, (B) if Independent Counsel has been selected by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL and approved by the Indemnitee, which approval shall not be unreasonably withheld or delayed, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee or (C) if so directed by the Board of Directors, by the shareholders of the Company, other than directors or officers who are parties to the Proceeding. If it is so determined that Indemnitee is entitled to indemnification, the Company shall make payment to Indemnitee within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary or appropriate to such determination in the discretion of the Board of Directors or Independent Counsel if retained pursuant to clause (ii)(B) of this Section 10(b). Any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company shall indemnify and hold Indemnitee harmless therefrom.

(c) The Company shall pay the reasonable fees and expenses of Independent Counsel, if one is appointed.

Section 11. Presumptions and Effect of Certain Proceedings.

(a) In making any determination with respect to entitlement to indemnification hereunder, the person or persons (including any court having jurisdiction over the matter) or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10(a) of this Agreement, and the Company shall have the burden of overcoming that presumption in connection with the making of any determination contrary to that presumption.

(b) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, upon a plea of *nolo contendere* or its equivalent, or entry of an order of probation prior to judgment, does not create a presumption that Indemnitee did not meet the requisite standard of conduct described herein for indemnification.



(c) The knowledge and/or actions, or failure to act, of any other director, officer, employee or agent of the Company or any other director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise shall not be imputed to Indemnitee for purposes of determining any other right to indemnification under this Agreement.

Section 12. Remedies of Indemnitee.

(a) If (i) a determination is made pursuant to Section 10(b) of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Sections 8 or 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within 60 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Sections 7 or 9 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification pursuant to any other section of this Agreement or the charter or Bylaws of the Company is not made within ten days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication of Indemnitee's entitlement to indemnification or advance of Expenses in an appropriate court, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence a proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 12(a); provided, however, that the foregoing clause shall not apply to a proceeding brought by Indemnitee to enforce Indemnitee's rights under Section 7 of this Agreement. Except as set forth herein, the provisions of Maryland law (without regard to its conflicts of laws rules) shall apply to any such arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12, Indemnitee shall be presumed to be entitled to indemnification or advance of Expenses, as the case may be, under this Agreement and the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be. If Indemnitee commences a judicial proceeding or arbitration pursuant to this Section 12, Indemnitee shall not be required to reimburse the Company for any advances pursuant to Section 8 of this Agreement until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed). The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all of the provisions of this Agreement.



(c) If a determination shall have been made pursuant to Section 10(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification that was not disclosed in connection with the determination.

(d) In the event that Indemnitee is successful in seeking, pursuant to this Section 12, a judicial adjudication of or an award in arbitration to enforce Indemnitee's rights under, or to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company for, any and all Expenses actually and reasonably incurred by Indemnitee in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that Indemnitee is entitled to receive part but not all of the indemnification or advance of Expenses sought, the Expenses incurred by Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

(e) Interest shall be paid by the Company to Indemnitee at the maximum rate allowed to be charged for judgments under the Courts and Judicial Proceedings Article of the Annotated Code of Maryland for amounts which the Company pays or is obligated to pay for the period (i) commencing with either the tenth day after the date on which the Company was requested to advance Expenses in accordance with Sections 8 or 9 of this Agreement or the 60th day after the date on which the Company was requested to make the determination of entitlement to indemnification under Section 10(b) of this Agreement, as applicable, and (ii) ending on the date such payment is made to Indemnitee by the Company.

Section 13. Defense of the Underlying Proceeding.

(a) Indemnitee shall notify the Company promptly in writing upon being served with any summons, citation, subpoena, complaint, indictment, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder and shall include with such notice a description of the nature of the Proceeding and a summary of the facts underlying the Proceeding. The failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 13(b) and of Section 13(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to indemnification hereunder; provided, however, that the Company shall notify Indemnitee of any such decision to defend within 15 calendar days following receipt of notice of any such Proceeding under Section 13(a) above. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise with respect to Indemnitee which (i) includes an admission of fault of Indemnitee, (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee, or (iii) would impose any Expense, judgment, fine, penalty or limitation on Indemnitee. This Section 13(b) shall not apply to a Proceeding brought by Indemnitee under Section 12 of this Agreement.



(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnitee is a party by reason of service in Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld or delayed, that Indemnitee may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld or delayed, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld or delayed, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld or delayed, at the expense of the Company (subject to Section 12(d) of this Agreement), to represent Indemnitee in connection with any such matter.

Section 14. Non-Exclusivity; Survival of Rights; Subrogation.

(a) The rights of indemnification and advance of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the charter or Bylaws of the Company, any

agreement or a resolution of the shareholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. Unless consented to in writing by Indemnitee, no amendment, alteration or repeal of the charter or Bylaws of the Company, this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal, regardless of whether a claim with respect to such action or inaction is raised prior or subsequent to such amendment, alteration or repeal. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right or remedy shall be cumulative and in addition to every other right or remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion of any right or remedy hereunder, or otherwise, shall not prohibit the concurrent assertion or employment of any other right or remedy.



(b) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(c) The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement and insurance provided by one or more persons other than the Company or its subsidiaries with whom or which Indemnitee may be associated. The Company hereby acknowledges and agrees that, as between the Company and such other persons (i) the Company shall be the indemnitor of first resort with respect to any Proceeding, Expense, liability or matter that is the subject of the Indemnity Obligations (as defined below), (ii) the Company shall be primarily liable for all Indemnity Obligations and any indemnification afforded to Indemnitee in respect of any Proceeding, Expense, liability or matter that is the subject of Indemnity Obligations, whether created by applicable law, organizational or constituent documents, contract (including this Agreement) or otherwise, (iii) any obligation of any other persons (other than the Company or its subsidiaries) with whom or which Indemnitee may be associated to indemnify Indemnitee or advance Expenses or liabilities to Indemnitee in respect of any Proceeding shall be secondary to the obligations of the Company hereunder, (iv) the Company shall be required to indemnify Indemnitee and advance Expenses or liabilities to Indemnitee hereunder to the fullest extent provided herein without regard to any rights Indemnitee may have against any other person with whom or which Indemnitee may be associated or insurer of any such person and (v) the Company irrevocably waives, relinquishes and releases any other person (other than its subsidiaries) with whom or which Indemnitee may be associated from any claim of contribution, subrogation or any other recovery of any kind in respect of amounts paid by the Company hereunder. In the event any other person (other than the Company or its subsidiaries) with whom or which Indemnitee may be associated or their insurers advances or extinguishes any liability or loss which is the subject of any Indemnity Obligation owed by the Company or payable under any Company insurance policy, the payor shall have a right of subrogation against the Company or its insurer or insurers for all amounts so paid which would otherwise be payable by the Company or its insurer or insurers under this Agreement. In no event will payment of an Indemnity Obligation by any other person with whom or which Indemnitee may be associated or their insurers affect the obligations of the Company hereunder or shift primary liability for any Indemnity Obligation to any other person with whom or which Indemnitee may be associated. Any indemnification, insurance or advancement provided by any other person with whom or which Indemnitee may be associated with respect to any liability arising as a result of Indemnitee's status as director, officer, employee or agent of the Company or capacity as an officer or director of any person is specifically in excess over any Indemnity Obligation of the Company or valid and any collectible insurance (including but not limited to any malpractice insurance or professional errors and omissions insurance) provided by the Company under this Agreement. As used herein, the term "Indemnity Obligations" shall mean all obligations of the Company to Indemnitee under the Company's charter or Bylaws, this Agreement or otherwise, including the Company's obligations to provide indemnification to Indemnitee and advance Expenses to Indemnitee under this Agreement.



Section 15. Insurance.

(a) The Company will use its reasonable best efforts to acquire directors' and officers' liability insurance, on terms and conditions deemed appropriate by the Board of Directors, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee by reason of service in Indemnitee's Corporate Status and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee by reason of service in Indemnitee's Corporate

Status. In the event of a Change in Control, the Company shall maintain in force any and all directors and officers liability insurance policies that were maintained by the Company immediately prior to the Change in Control for a period of six years with the insurance carrier or carriers and through the insurance broker in place at the time of the Change in Control; provided, however, (i) if the carriers will not offer the same policy and an expiring policy needs to be replaced, a policy substantially comparable in scope and amount shall be obtained and (ii) if any replacement insurance carrier is necessary to obtain a policy substantially comparable in scope and amount, such insurance carrier shall have an AM Best rating that is the same or better than the AM Best rating of the existing insurance carrier; provided, further, however, in no event shall the Company be required to expend in the aggregate in excess of 250% of the annual premium or premiums paid by the Company for directors and officers liability insurance in effect on the date of the Change in Control. In the event that 250% of the annual premium paid by the Company for such existing directors and officers liability insurance is insufficient for such coverage, the Company shall spend up to that amount to purchase such lesser coverage as may be obtained with such amount.

(b) Without in any way limiting any other obligation under this Agreement, the Company shall indemnify Indemnitee for any payment by Indemnitee which would otherwise be indemnifiable hereunder arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and Expenses incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in Section 15(a). The purchase, establishment and maintenance of any such insurance shall not in any way limit or affect the rights or obligations of the Company or Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and the Indemnitee shall not in any way limit or affect the rights or obligations of the Company under any such insurance policies. If, at the time the Company receives notice from any source of a Proceeding to which Indemnitee is a party or a participant (as a witness or otherwise) the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies.

(c) The Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 16. Coordination of Payments. The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable or payable or reimbursable as Expenses hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.



Section 17. Contribution. If the indemnification provided in this Agreement is unavailable in whole or in part and may not be paid to Indemnitee for any reason, other than for failure to satisfy the standard of conduct set forth in Section 4 or due to the provisions of Section 5, then, in respect to any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), to the fullest extent permissible under applicable law, the Company, in lieu of indemnifying and holding harmless Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for Expenses, judgments, penalties, and/or amounts paid or to be paid in settlement, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

Section 18. Reports to Shareholders. To the extent required by the MGCL, the Company shall report in writing to its shareholders the payment of any amounts for indemnification of, or advance of Expenses to, Indemnitee under this Agreement arising out of a Proceeding by or in the right of the Company with the notice of the meeting of shareholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 19. Duration of Agreement; Binding Effect.

(a) This Agreement shall continue until and terminate on the later of (i) the date that Indemnitee shall have ceased to serve as a director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company and (ii) the date that Indemnitee is no longer subject to any actual or possible Proceeding (including any rights of appeal thereto and any Proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement).

(b) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company, and shall inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(c) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.



(d) The Company and Indemnitee agree that a monetary remedy for breach of this Agreement, at some later date, may be inadequate, impracticable and difficult of proof, and further agree that such breach may cause Indemnitee irreparable harm. Accordingly, the parties hereto agree that Indemnitee may enforce this Agreement by seeking injunctive relief and/or specific performance hereof, without any necessity of showing actual damage or irreparable harm and that by seeking injunctive relief and/or specific performance, Indemnitee shall not be precluded from seeking or obtaining any other relief to which Indemnitee may be entitled. Indemnitee shall further be entitled to such specific performance and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of posting bonds or other undertakings in connection therewith. The Company acknowledges that, in the absence of a waiver, a bond or undertaking may be required of Indemnitee by a court, and the Company hereby waives any such requirement of such a bond or undertaking.

Section 20. Severability. If any provision or provisions of this Agreement shall be held to be invalid, void, illegal or otherwise unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, void, illegal or otherwise unenforceable that is not itself invalid, void, illegal or otherwise unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, void, illegal or otherwise unenforceable, that is not itself invalid, void, illegal or otherwise unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 21. Counterparts. This Agreement may be executed in one or more counterparts, (delivery of which may be by facsimile, or via e-mail as a portable document format (.pdf) or other electronic format), each of which will be deemed to be an original and it will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one such counterpart. One such counterpart signed by the party against whom enforceability is sought shall be sufficient to evidence the existence of this Agreement.

Section 22. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 23. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor, unless otherwise expressly stated, shall such waiver constitute a continuing waiver.

Section 24. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, on the day of such delivery, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to the address set forth on the signature page hereto.

(b) If to the Company, to:

Preston Hollow Community Capital, Inc.
1717 Main Street
Suite 3900
Dallas, Texas 75201

or to such other address as may have been furnished in writing to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 25. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws rules.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY:

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**

By: _____
Name: Jim Thompson
Title: Chairman and Chief Executive Officer

INDEMNITEE

_____
Name:
Address: 1717 Main Street
Suite 3900
Dallas, Texas 75201

*[Signature page to Indemnification Agreement ]*

**EXHIBIT A**

AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED

To: The Board of Directors of Preston Hollow Community Capital, Inc.

Re: Affirmation and Undertaking

Ladies and Gentlemen:

This Affirmation and Undertaking is being provided pursuant to that certain Indemnification Agreement dated the _____ day of _____, 20___, by and between Preston Hollow Community Capital, Inc., a Maryland corporation (the "Company"), and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of Expenses in connection with **[Description of Proceeding]** (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of service in my Corporate Status. I hereby affirm my good faith belief that at all times, insofar as I was involved as a director and an officer of the Company, in any of the facts or events giving rise to the Proceeding, I (1) did not act with bad faith or active or deliberate dishonesty, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance by the Company for Expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if, in connection with the Proceeding, it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the portion of the Advanced Expenses relating to the claims, issues or matters in the Proceeding as to which the foregoing findings have been established.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this ___ day of _____, 20____.

Name: _____

**Exhibit 10.6**

# FORM OF TAX RECEIVABLES AGREEMENT

This TAX RECEIVABLES AGREEMENT (this "**Agreement**"), is dated as of [_], 2021 (the "**Effective Date**"), and is between Preston Hollow Community Capital, Inc., a Maryland corporation ("**PubCo**"), Preston Hollow Capital, LLC, a Delaware limited liability company ("**PHC**") and each of the other persons from time to time that become a party hereto (each, a "**TRA Party**" and together with PHC, the "**TRA Parties**").

## RECITALS

WHEREAS, PHC holds Class A units (the "**Units**") in PHCC OP, LP, a Delaware limited partnership ("**OpCo**"), which is classified as a partnership for United States federal income Tax purposes;

WHEREAS, PubCo has a wholly owned subsidiary that is the general partner of OpCo, and PubCo holds and will hold Units;

WHEREAS, on or before the Effective Date, (1) PHC will have, through a series of transactions, contributed certain assets to OpCo and received Units and an equivalent number of Class B Shares (as defined below), (2) public investors will have contributed cash to PubCo in exchange for Class A common stock of PubCo (the "**Class A Shares**"), and (3) PubCo will have contributed cash and any assets contributed to PubCo by PHC to OpCo in exchange for Units of OpCo (the "**Formation Transactions**");

WHEREAS, the Units held by PHC may be exchanged for Class A Shares in accordance with and subject to the provisions of the LP Agreement (as defined below);

WHEREAS, PHC will also own Class B common stock of PubCo (the "**Class B Shares**"), which entitle PHC to voting power intended to be in proportion to the economic ownership interest of PHC with respect to OpCo, and represent an economic interest equal to $1/50^{th}$ of a Class A Share;

WHEREAS, OpCo and each of its direct and indirect Subsidiaries (as defined below) treated as a partnership for United States federal income Tax purposes currently have and will have in effect an election under Section 754 of the Internal Revenue Code of 1986, as amended (the "**Code**"), for each Taxable Year (as defined below) that includes the Effective Date and for each Taxable Year in which a taxable acquisition (including a deemed taxable acquisition under Section 707(a) of the Code) or non-taxable acquisition of Units by PubCo from any of the TRA Parties (an "**Exchanging Holder**") for Class A Shares and/or for cash or other consideration after the Effective Date or any other distribution by OpCo with respect to Units after the Effective Date (an "**Exchange**") occurs;

WHEREAS, as a result of an Exchange, PubCo will be entitled to obtain the benefit of the Basis Adjustments (as defined below);

WHEREAS, the income, gain, loss, expense and other Tax items of PubCo may be affected by (i) the Basis Adjustments and (ii) any deduction attributable to any payment (including amounts attributable to Imputed Interest (as defined below)) made under this Agreement (collectively, the "**Tax Attributes**"); and

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WHEREAS, the parties to this Agreement desire to provide for certain payments and make certain arrangements with respect to the effect of the Tax Attributes on the liability for Taxes of PubCo.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

## ARTICLE I

## DEFINITIONS

Section 1.1 **Definitions**. As used in this Agreement, the terms set forth in this Article I shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

"**Actual Tax Liability**" means, with respect to any Taxable Year, the sum of (i) the sum of (A) the liability for U.S. federal income Taxes of PubCo and (B) without duplication, the portion of any liability for U.S. federal income Taxes imposed directly on OpCo (and OpCo's applicable subsidiaries) under Section 6225 or any similar provision of the Code that is allocable to PubCo under Section 704 of the Code, in each case using the same methods, elections, conventions and similar practices used on the relevant IRS Form 1120 (or any successor form) and (ii) the product of the amount of the U.S. federal taxable income for such taxable year reported on PubCo's IRS Form 1120 (or any successor form) and the Blended Rate.

"**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person.

"**Agreed Rate**" means a per annum rate of LIBOR plus 100 basis points.

"**Agreement**" has the meaning set forth in the Preamble to this Agreement.

"**Amended Schedule**" has the meaning set forth in Section 2.3(b) of this Agreement.

"**Attributable**" means the portion of any Tax Attribute of PubCo that is "Attributable" to any present or former holder of Units, other than PubCo, as the case may be, and shall be determined by reference to the Tax Attributes, under the following principles:

(i) any Basis Adjustments shall be determined separately with respect to each Exchanging Holder and are Attributable to each Exchanging Holder in an amount equal to the total Basis Adjustments relating to such Units Exchanged by such Exchanging Holder; and

(ii) any deduction to PubCo with respect to a Taxable Year in respect of any deduction attributable to any payment (including amounts attributable to Imputed Interest) made under this Agreement is Attributable to the Person that is required to include the Imputed Interest or any other payment in income (without regard to whether such Person is actually subject to Tax thereon).



"**Basis Adjustment**" means the adjustment to the Tax basis of a Reference Asset under Sections 732, 734(b) and/or 1012 of the Code (in situations where, as a result of one or more Exchanges, OpCo becomes an entity that is disregarded as separate from its owner for United States federal income Tax purposes) or under Sections 734(b), 743(b) and/or 754 of the Code (in situations where, following an Exchange, OpCo remains in existence as an entity treated as a partnership for United States federal income Tax purposes) and, in each case, analogous sections of United States state and local Tax laws, as a result of an Exchange and the payments made pursuant to this Agreement in respect of such Exchange. For the avoidance of doubt, the amount of any Basis Adjustment resulting from an Exchange of one or more Units shall be determined without regard to any Pre-Exchange Transfer of such Units and as if any such Pre-Exchange Transfer had not occurred. The amount of any Basis Adjustment shall be determined using the Market Value at the time of the Exchange. For the avoidance of doubt, payments made under this Agreement shall not be treated as resulting in a Basis Adjustment to the extent such payments are treated as Imputed Interest.

"**Basis Schedule**" has the meaning set forth in Section 2.1 of this Agreement.

"**Beneficial Owner**" means, with respect to any security, a Person who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares: (i) voting power, which includes the power to vote, or to direct the voting of, such security; and/or (ii) investment power, which includes the power to dispose of, or to direct the disposition of, such security. The terms "**Beneficially Own**" and "**Beneficial Ownership**" shall have correlative meanings.

"**Blended Rate**" means, with respect to any Taxable Year, the sum of the effective rates of Tax imposed on the aggregate net income of PubCo in each state or local jurisdiction in which PubCo files Tax Returns for such Taxable Year, with the maximum effective rate in any state or local jurisdiction being equal to the product of (i) the apportionment factor on the income or franchise PubCo Tax Return in such jurisdiction for such Taxable Year and (ii) the maximum applicable corporate Tax rate in effect in such jurisdiction in such Taxable Year. As an illustration of the calculation of Blended Rate for a Taxable Year, if PubCo solely files Tax Returns in State 1 and

State 2 in a Taxable Year, the maximum applicable corporate Tax rates in effect in such states in such Taxable Year are 6.5% and 5.5%, respectively, and the apportionment factors for such states in such Taxable Year are 55% and 45% respectively, then the Blended Rate for such Taxable Year is equal to 6.05% (i.e., 6.5% multiplied by 55% plus 5.5% multiplied by 45%).

"**Board**" means the Board of Directors of PubCo.

"**Business Day**" means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York are authorized or required by law to close.



"**Change of Control**" means the occurrence of any of the following events:

(i) any Person or any group of Persons acting together that would constitute a "group" for purposes of Section 13(d) of the Securities Exchange Act of 1934, as amended or any successor provisions thereto is or becomes the Beneficial Owner, directly or indirectly, of securities of PubCo representing more than 50% of the combined voting power of PubCo's then outstanding voting securities (excluding, however, a transaction in which PHC or any of its Affiliates (or a group comprised of PHC and/or any of its Affiliates) becomes the Beneficial Owner, directly or indirectly, of securities of PubCo representing more than 50% of the combined voting power of PubCo's then outstanding voting securities); or

(ii) the following individuals cease for any reason to constitute a majority of the number of directors of PubCo then serving: individuals who, on the Effective Date, constitute the Board and any new director whose appointment or election by the Board or nomination for election by PubCo's stockholders was approved or recommended by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors on the Effective Date or whose appointment, election or nomination for election was previously so approved or recommended by the directors referred to in this clause (ii); or

(iii) there is consummated a merger or consolidation of PubCo with any other corporation or other entity, and, immediately after the consummation of such merger or consolidation, either (x) the Board immediately prior to the merger or consolidation does not constitute at least a majority of the board of directors of the company surviving the merger or, if the surviving company is a Subsidiary, the ultimate parent thereof, or (y) the voting securities of PubCo immediately prior to such merger or consolidation do not continue to represent or are not converted into more than 50% of the combined voting power of the then outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof; or

(iv) the stockholders of PubCo approve a plan of complete liquidation or dissolution of PubCo or there is consummated an agreement or series of related agreements for the sale, lease or other disposition, directly or indirectly, by PubCo of all or substantially all of PubCo's assets, other than such sale or other disposition by PubCo of all or substantially all of PubCo's assets to an entity at least 50% of the combined voting power of the voting securities of which are owned by stockholders of PubCo in substantially the same proportions as their ownership of PubCo immediately prior to such sale.

Notwithstanding the foregoing, except with respect to clause (ii) and clause (iii)(x) above, a "Change of Control" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the shares of PubCo immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in, and voting control over, and own substantially all of the shares of, an entity which owns, directly or indirectly, all or substantially all of the assets of PubCo immediately following such transaction or series of transactions.

"**Class A Shares**" has the meaning set forth in the Recitals of this Agreement.



"**Class B Shares**" has the meaning set forth in the Recitals of this Agreement.

"**Code**" has the meaning set forth in the Recitals of this Agreement.

"**Control**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"**Covered Person**" has the meaning set forth in Section 7.14 of this Agreement.

"**Cumulative Net Realized Tax Benefit**" for a Taxable Year means the cumulative amount of Realized Tax Benefits for all Taxable Years of PubCo, up to and including such Taxable Year net of the cumulative amount of Realized Tax Detriment for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedules or Amended Schedules, if any, in existence at the time of such determination; provided, that, for the avoidance of doubt, the computation of the Cumulative Net Realized Tax Benefit shall be adjusted to reflect any applicable Determination with respect to any Realized Tax Benefits and/or Realized Tax Detriments.

"**Default Rate**" means a per annum rate of LIBOR plus 500 basis points.

"**Determination**" shall have the meaning ascribed to such term in Section 1313(a) of the Code or similar provision of state, foreign or local Tax law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for Tax.

"**Dispute**" has the meaning set forth in Section 7.8(a) of this Agreement.

"**Early Termination Date**" means the date of an Early Termination Notice for purposes of determining the Early Termination Payment.

"**Early Termination Effective Date**" means the date on which an Early Termination Schedule becomes binding pursuant to Section 4.2.

"**Early Termination Notice**" has the meaning set forth in Section 4.2 of this Agreement.

"**Early Termination Payment**" has the meaning set forth in Section 4.3(b) of this Agreement.

"**Early Termination Rate**" means the lesser of (i) 6.5% per annum, compounded annually, and (ii) LIBOR plus 100 basis points.

"**Early Termination Schedule**" has the meaning set forth in Section 4.2 of this Agreement.

"**Effective Date**" has the meaning set forth in the Preamble of this Agreement.

"**Exchange**" has the meaning set forth in the Recitals of this Agreement.

"**Exchange Date**" means the date of any Exchange.



"**Exchanging Holder**" has the meaning set forth in the Recitals of this Agreement.

"**Expert**" has the meaning set forth in Section 7.9 of this Agreement.

"**Formation Transactions**" has the meaning set forth in the Recitals of this Agreement.

"**Future TRAs**" has the meaning set forth in Section 5.1 of this Agreement.

"**Hypothetical Tax Liability**" means, with respect to any Taxable Year, the sum of (i) the sum of (A) the liability for U.S. federal income Taxes of PubCo and (B) without duplication, the portion of any liability for U.S. federal income Taxes imposed directly on OpCo (and OpCo's applicable subsidiaries) under Section 6225 or any similar provision of the Code that is allocable to PubCo under

Section 704 of the Code, in each case using the same methods, elections, conventions and similar practices used on the relevant IRS Form 1120 (or any successor form) and (ii) the product of the U.S. federal taxable income for such taxable year reported on PubCo's IRS Form 1120 (or any successor form) and the Blended Rate, but, in the determination of the liability in clauses (i) and (ii), above, (a) using the Non-Stepped Up Tax Basis as reflected on the Basis Schedule including amendments thereto for the Taxable Year, and (b) excluding any deduction attributable to any payment (including amounts attributable to Imputed Interest) made under this Agreement for the Taxable Year; provided, that for purposes of determining the Hypothetical Tax Liability, the combined Tax rate for United States state and local Taxes (but not, for the avoidance of doubt, United States federal Taxes) of PubCo shall be the Blended Rate. For the avoidance of doubt, Hypothetical Tax Liability shall be determined without taking into account the carryover or carryback of any Tax item (or portions thereof) (including for avoidance of doubt a net operating loss or capital loss carryover or carryback) that is attributable to a Tax Attribute as applicable.

"**Imputed Interest**" in respect of a TRA Party shall mean any interest imputed under Section 1272, 1274 or 483 or other provision of the Code and any similar provision of state and local Tax law with respect to PubCo's payment obligations in respect of such TRA Party under this Agreement.

"**Interest Amount**" has the meaning set forth in Section 3.1(b) of this Agreement.

"**IRS**" means the United States Internal Revenue Service.

"**LIBOR**" means during any period, the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by PubCo as an authorized information vendor for the purpose of displaying rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market (an "**Alternate Source**"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the first day of such period as the London interbank offered rate for U.S. dollars having a borrowing date and a maturity comparable to such period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any LIBOR Alternate Source, a comparable replacement rate determined by PubCo and the TRA Party Representative at such time, which determination shall be conclusive absent manifest error); provided, that at no time shall LIBOR be less than 0%. If PubCo has made the determination (such determination to be conclusive absent manifest error) that (i) LIBOR is no longer a widely recognized benchmark rate for newly originated loans in the U.S. loan market in U.S. dollars or (ii) the applicable supervisor or administrator (if any) of LIBOR has made a public statement identifying a specific date after which LIBOR shall no longer be used for determining interest rates for loans in the U.S. loan market in U.S. dollars, then PubCo and the TRA Party Representative shall (as determined by PubCo and the TRA Party Representative to be consistent with market practice generally), establish a replacement interest rate (the "**Replacement Rate**"), in which case, the Replacement Rate shall, subject to the next two sentences, replace LIBOR for all purposes under this Agreement. In connection with the establishment and application of the Replacement Rate, this Agreement shall be amended solely with the consent of PubCo, OpCo and the TRA Party Representative, as may be necessary or appropriate, in the reasonable judgment of PubCo and the TRA Party Representative, to effect the provisions of this section. The Replacement Rate shall be applied in a manner consistent with market practice; provided that, in each case, to the extent such market practice is not administratively feasible for PubCo, such Replacement Rate shall be applied as otherwise reasonably determined by PubCo and the TRA Party Representative.



"**LP Agreement**" means, with respect to OpCo, the Amended and Restated Limited Partnership Agreement of OpCo, dated on or about the date hereof, as such agreement may be further amended, restated, supplemented and/or otherwise modified from time to time.

"**Market Value**" shall mean the closing price of the Class A Shares on the applicable Exchange Date on the national securities exchange or interdealer quotation system on which such Class A Shares are then traded or listed, as reported by the *Wall Street Journal*; provided, that if the closing price is not reported by the *Wall Street Journal* for the applicable Exchange Date, then the Market Value shall mean the closing price of the Class A Shares on the Business Day immediately preceding such Exchange Date on the national securities exchange or interdealer quotation system on which such Class A Shares are then traded or listed, as reported by the *Wall Street Journal*; provided, further, that if the Class A Shares are not then listed on a national securities exchange or interdealer quotation system, "Market Value" shall mean the cash consideration paid for Class A Shares, or the fair market value of the other property delivered for Class A Shares, as determined by the Board in good faith. Notwithstanding anything to the contrary in the above sentence, to the extent property

is exchanged for cash in a transaction, the Market Value shall be determined by reference to the amount of cash transferred in such transaction.

"**Material Objection Notice**" has the meaning set forth in Section 4.2 of this Agreement.

"**Net Tax Benefit**" has the meaning set forth in Section 3.1(b) of this Agreement.

"**Non-Stepped Up Tax Basis**" means, with respect to any Reference Asset at the time of an Exchange, the Tax basis that such asset would have had at such time if no Basis Adjustments had been made.

"**Objection Notice**" has the meaning set forth in Section 2.3(a) of this Agreement.

"**OpCo**" has the meaning set forth in the Preamble of this Agreement.

"**Payment Date**" means any date on which a payment is required to be made pursuant to this Agreement.



"**Person**" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

"**PHC**" has the meaning set forth in the Preamble of this Agreement.

"**Pre-Exchange Transfer**" means any transfer or distribution in respect of one or more Units (including a distribution of such Units by PHC in redemption of part or all of a Person's units in PHC) (i) that occurs prior to an Exchange of such Units, and (ii) to which Section 734(b) or 743(b) of the Code applies.

"**PubCo Tax Return**" means the United States federal and/or state and/or local Tax Return, as applicable, of PubCo filed with respect to Taxes of any Taxable Year.

"**Realized Tax Benefit**" means, for a Taxable Year, the excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability. If all or a portion of the Actual Tax Liability for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until there has been a Determination.

"**Realized Tax Detriment**" means, for a Taxable Year, the excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability. If all or a portion of the Actual Tax Liability for the Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

"**Reconciliation Dispute**" has the meaning set forth in Section 7.9 of this Agreement.

"**Reconciliation Procedures**" has the meaning set forth in Section 2.3(a) of this Agreement.

"**Reference Asset**" means an asset that is held by OpCo, or by any of its direct or indirect Subsidiaries treated as a partnership or disregarded entity (but only if such indirect Subsidiaries are held only through Subsidiaries treated as partnerships or disregarded entities) for purposes of the applicable Tax, at the time of an Exchange. A Reference Asset also includes any asset that is "substituted basis property" under Section 7701(a)(42) of the Code with respect to a Reference Asset.

"**Schedule**" means any of the following: (i) a Basis Schedule; (ii) a Tax Benefit Schedule; or (iii) the Early Termination Schedule.

"**Section 734(b) Exchange**" means any Exchange that results in a Basis Adjustment under Section 734(b) of the Code.

"**Senior Obligations**" has the meaning set forth in Section 5.1 of this Agreement.

"**Subsidiaries**" means, with respect to any Person, as of any date of determination, any other Person as to which such Person, owns, directly or indirectly, or otherwise controls more than 50% of the voting power or other similar interests or the sole general partner interest or managing member or similar interest of such Person.



"**Tax Attributes**" has the meaning set forth in the Recitals of this Agreement.

"**Tax Benefit Payment**" has the meaning set forth in Section 3.1(b) of this Agreement.

"**Tax Benefit Schedule**" has the meaning set forth in Section 2.2 of this Agreement.

"**Tax Return**" means any return, declaration, report or similar statement filed or required to be filed with respect to Taxes (including any attached schedules), including, without limitation, any information return, claim for refund, amended return and declaration of estimated Tax.

"**Taxable Year**" means a taxable year of PubCo as defined in Section 441(b) of the Code or comparable section of state or local Tax law, as applicable (and, therefore, for the avoidance of doubt, may include a period of less than twelve (12) months for which a Tax Return is made), ending on or after the Effective Date.

"**Taxes**" means any and all United States federal, state, local and foreign taxes, assessments or similar charges that are based on or measured with respect to net income or profits, and any interest related to such Tax.

"**Taxing Authority**" means any domestic, federal, national, state, county or municipal or other local government, any subdivision, agency, commission or authority thereof, or any quasi-governmental body exercising any taxing authority or any other authority exercising Tax regulatory authority.

"**TRA Party**" has the meaning set forth in the Preamble to this Agreement.

"**TRA Party Representative**" means, initially, Preston Hollow Capital LLC, and thereafter, that TRA Party or committee of TRA Parties determined from time to time by a plurality vote of the TRA Parties ratably in accordance with their right to receive Early Termination Payments hereunder if all TRA Parties had fully Exchanged their Units for Class A Shares or other consideration and PubCo had exercised its right of early termination on the date of the most recent Exchange. If at any time more than one TRA Party has been determined to serve as TRA Party Representative, references to TRA Party Representative herein shall apply to TRA Party Representatives, *mutatis mutandis*.

"**Treasury Regulations**" means the final, temporary and proposed regulations under the Code promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

"**Units**" has the meaning set forth in the Recitals of this Agreement.



"**Valuation Assumptions**" shall mean, as of an Early Termination Date, the assumptions that in each Taxable Year ending on or after such Early Termination Date, (1) PubCo will have taxable income sufficient to fully utilize the Tax items arising from the Tax Attributes (other than any items addressed in clause (2) below) during such Taxable Year or future Taxable Years (including, for the avoidance of doubt, any deduction attributable to Basis Adjustments and Imputed Interest that would result from future payments made under this Agreement that would be paid in accordance with the Valuation Assumptions, further assuming that such applicable future payments would be paid on the due date (without extensions) for filing the PubCo Tax Return for the applicable Taxable Year) in which such deductions would become available, (2) any loss carryovers generated by deductions arising from any Tax Attributes or Imputed Interest that are available as of the date of such Early Termination Date will be used by PubCo on a pro rata basis from the date of such Early Termination Date through the earlier of (x) the scheduled expiration date under applicable Tax law of such loss carryovers or

(y) the fifth (5th) anniversary of the Early Termination Date, (3) the United States federal, state and local income Tax rates that will be in effect for each such Taxable Year will be those specified for each such Taxable Year by the Code and other law as in effect on the Early Termination Date and the Blended Rate will be calculated based on such rates and the apportionment factor applicable in such Taxable Year, (4) any non-amortizable or non-depreciable Reference Assets (including for avoidance of doubt debt instruments) will be disposed of for an amount sufficient to fully utilize the Basis Adjustment with respect to such Reference Asset (or, in the case of a debt instrument, the portion of the applicable Basis Adjustment which has not previously been taken into account as amortizable bond premium under Section 171 of the Code and the related Treasury Regulations) on the fifth (5th) anniversary of the applicable Exchange and any cash equivalents will be disposed of twelve (12) months following the Early Termination Date; provided, that in the event of a Change of Control, such non-amortizable or non-depreciable Reference Assets shall be deemed disposed of at the time of sale (if applicable) of the relevant asset in the Change of Control (if earlier than such fifth (5th) anniversary) and (5) if, at the Early Termination Date, there are Units that have not been Exchanged, then each such Unit shall be deemed Exchanged for the Market Value of the Class A Shares and the amount of cash that would be transferred if the Exchange occurred on the Early Termination Date.

## ARTICLE II

## DETERMINATION OF CERTAIN REALIZED TAX BENEFIT

Section 2.1 **Basis Schedule**. Within one-hundred and fifty (150) calendar days after the due date (including extensions) of IRS Form 1120 (or any successor form) of PubCo for each relevant Taxable Year, PubCo shall deliver to each TRA Party a schedule (the "**Basis Schedule**") that shows, in reasonable detail necessary to perform the calculations required by this Agreement, (i) the Non-Stepped Up Tax Basis of the Reference Assets in respect of such TRA Party as of each applicable Exchange Date, if any, (ii) the Basis Adjustment with respect to the Reference Assets in respect of such TRA Party as a result of the Exchanges effected in such Taxable Year or any prior Taxable Year by such TRA Party, if any, calculated in the aggregate, (iii) the period (or periods) over which the Reference Assets in respect of such TRA Party are amortizable and/or depreciable (and, where the Reference Asset is a debt instrument, the period (or periods) over which any bond premium is amortizable) and (iv) the period (or periods) over which each Basis Adjustment in respect of such TRA Party is amortizable (including under any applicable rules related to bond premium) and/or depreciable. All costs and expenses incurred in connection with the provision and preparation of the Basis Schedules and Tax Benefit Schedules for each TRA Party in compliance with this Agreement shall be borne by PubCo.



Section 2.2 **Tax Benefit Schedule.**

(a) **Tax Benefit Schedule**. Within ninety (90) calendar days after the due date (including extensions) of IRS Form 1120 (or any successor form) of PubCo for any Taxable Year in which there is a Realized Tax Benefit or a Realized Tax Detriment Attributable to a TRA Party, PubCo shall provide to such TRA Party a schedule showing, in reasonable detail, the calculation of the Realized Tax Benefit and Tax Benefit Payment, or the Realized Tax Detriment, as applicable, in respect of such TRA Party for such Taxable Year (a "**Tax Benefit Schedule**"). Each Tax Benefit Schedule will become final as provided in Section 2.3(a) and may be amended as provided in Section 2.3(b) (subject to the procedures set forth in Section 2.3(b)).

(b) **Applicable Principles**.

(i) **General**. Subject to Section 3.3, the Realized Tax Benefit (or the Realized Tax Detriment) for each Taxable Year is intended to measure the decrease (or increase) in the actual liability for Taxes of PubCo for such Taxable Year attributable to the Tax Attributes, determined using a "with and without" methodology. Carryovers or carrybacks of any Tax item (including for avoidance of doubt a net operating loss or capital loss carryover or carryback) that is attributable to any of the Tax Attributes shall be considered to be subject to the rules of the Code and the Treasury Regulations or the appropriate provisions of United States state and local income and franchise Tax law, as applicable, governing the use, limitation and expiration of carryovers or carrybacks of the relevant type. If a carryover or carryback of any Tax item includes a portion that is attributable to a Tax Attribute (or Tax Attributes) and another portion that is not attributable to any Tax Attributes, such portions shall be considered to be used in accordance with the "with and without" methodology. The parties agree that (A) all Tax Benefit Payments (other than Imputed Interest thereon) attributable to the Basis Adjustments will be treated as subsequent upward purchase price adjustments that have the effect of creating additional Basis Adjustments to Reference Assets for PubCo in the year of payment, (B) as a result, such additional Basis Adjustments will be

incorporated into the current year calculation and into future year calculations, as appropriate, and (C) the Actual Tax Liability will take into account the deduction of the portion of the Tax Benefit Payment that must be accounted for as Imputed Interest.

(ii) **Applicable Principles of Section 734(b) Exchanges**. Notwithstanding any provisions to the contrary in this Agreement, the foregoing treatment set out in Section 2.3(b)(i) shall not be required to apply to payments hereunder to a TRA Party in respect of a Section 734(b) Exchange by such TRA Party. For the avoidance of doubt, payments made under this Agreement relating to a Section 734(b) Exchange shall not be treated as resulting in a Basis Adjustment to the extent such payments are treated as Imputed Interest. The parties intend that (A) a TRA Party that has made a Section 734(b) Exchange shall, with respect to the Basis Adjustment resulting from such Section 734(b) Exchange or any payments hereunder in respect of such Section 734(b) Exchange, be entitled to Tax Benefit Payments attributable to such Basis Adjustments only to the extent such Basis Adjustments are allocable to PubCo following such Section 734(b) Exchange (without taking into account any concurrent or subsequent Exchanges) and (B) if, as a result of a subsequent Exchange, an increased portion of the Basis Adjustments resulting from such Section 734(b) Exchange or any payments hereunder in respect of such Section 734(b) Exchange becomes allocable to PubCo, then the TRA Party that makes such subsequent Exchange shall be entitled to a Tax Benefit Payment calculated in respect of such increased portion.



Section 2.3 **Procedures, Amendments**.

(a) **Procedure**. Every time PubCo delivers to a TRA Party an applicable Schedule under this Agreement, including any Amended Schedule delivered pursuant to Section 2.3(b), and any Early Termination Schedule or amended Early Termination Schedule, PubCo shall also (x) deliver to such TRA Party supporting schedules and work papers, as determined by PubCo or as reasonably requested by such TRA Party, providing reasonable detail regarding data and calculations that were relevant for purposes of preparing the Schedule and (y) allow such TRA Party reasonable access at no cost to the appropriate representatives at PubCo, as determined by PubCo or as reasonably requested by such TRA Party, in connection with a review of such Schedule. Without limiting the generality of the preceding sentence, PubCo shall ensure that any Tax Benefit Schedule that is delivered to a TRA Party, along with any supporting schedules and work papers, provides a reasonably detailed presentation of the calculation of the Actual Tax Liability and the Hypothetical Tax Liability and identifies any material assumptions or operating procedures or principles that were used for purposes of such calculations. An applicable Schedule or amendment thereto shall become final and binding on all parties thirty (30) calendar days from the date on which all relevant TRA Parties are treated as having received the applicable Schedule or amendment thereto under Section 7.1 unless the TRA Party Representative (i) within thirty (30) calendar days from such date provides PubCo with written notice of a material objection to such Schedule ("**Objection Notice**") made in good faith or (ii) provides a written waiver of such right of any Objection Notice within the period described in clause (i) above, in which case such Schedule or amendment thereto becomes binding on the date the waiver is received by PubCo. If PubCo and the TRA Party Representative, for any reason, are unable to successfully resolve the issues raised in the Objection Notice within thirty (30) calendar days after receipt by PubCo of an Objection Notice, PubCo and the TRA Party Representative shall employ the reconciliation procedures as described in Section 7.9 of this Agreement (the "**Reconciliation Procedures**"). The TRA Party Representative will fairly represent the interests of each of the TRA Parties and shall use reasonable efforts to timely raise and pursue, in accordance with this Section 2.3(a), any reasonable objection to a Schedule or amendment thereto timely communicated in writing to the TRA Party Representative by a TRA Party.

(b) **Amended Schedule**. The applicable Schedule for any Taxable Year may be amended from time to time by PubCo (i) in connection with a Determination affecting such Schedule, (ii) to correct material inaccuracies in the Schedule identified as a result of the receipt of additional factual information relating to a Taxable Year after the date the Schedule was provided to a TRA Party, (iii) to comply with an Expert's determination under the Reconciliation Procedures, (iv) to reflect a change in the Realized Tax Benefit, or the Realized Tax Detriment for such Taxable Year attributable to a carryback or carryforward of a loss or other Tax item to such Taxable Year, (v) to reflect a change in the Realized Tax Benefit or the Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year or (vi) to adjust an applicable TRA Party's Basis Schedule to take into account payments made pursuant to this Agreement (any such Schedule, an "**Amended Schedule**"). PubCo shall provide an Amended Schedule to each TRA Party when PubCo delivers the Basis Schedule for the following taxable year.

## ARTICLE III

## TAX BENEFIT PAYMENTS

Section 3.1 **Payments**.

(a) **Payments**. Within five (5) calendar days after a Tax Benefit Schedule delivered to a TRA Party becomes final in accordance with Section 2.3(a) and Section 7.9, if applicable, PubCo shall pay such TRA Party for such Taxable Year the Tax Benefit Payment determined pursuant to Section 3.1(b) that is Attributable to the relevant TRA Party. Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to the bank account previously designated by such TRA Party to PubCo or as otherwise agreed by PubCo and such TRA Party. For the avoidance of doubt, (x) no Tax Benefit Payment shall be made in respect of estimated Tax payments, including, without limitation, United States federal estimated income Tax payments and (y) the payments provided for pursuant to the above sentence shall be computed separately for each TRA Party. PubCo and the TRA Parties hereby acknowledge and agree that, as of the date of this Agreement and as of the date of any future Exchange that may be subject to this Agreement, the aggregate value of the Tax Benefit Payments cannot be reasonably ascertained for United States federal income or other applicable Tax purposes. Notwithstanding anything to the contrary in this Agreement, with respect to each Exchange by or with respect to any TRA Party, if such TRA Party notifies PubCo in writing of a stated maximum selling price (within the meaning of Treasury Regulation 15A.453-1(c)(2)) to be applied with respect to such Exchange, the amount of the initial consideration received in connection with such Exchange and the aggregate Tax Benefit Payments to such TRA Party in respect of such Exchange (other than amounts accounted for as interest under the Code) shall not exceed such stated maximum selling price.

(b) A "**Tax Benefit Payment**" in respect of a TRA Party for a Taxable Year means an amount, not less than zero, equal to the Net Tax Benefit that is Attributable to such TRA Party and the Interest Amount with respect thereto. For the avoidance of doubt, for Tax purposes, the Interest Amount shall not be treated as interest, but instead, shall be treated as additional consideration in the applicable transaction, unless otherwise required by law. Subject to Section 3.3, the "**Net Tax Benefit**" for a Taxable Year shall be an amount equal to the excess, if any, of 85% of the Cumulative Net Realized Tax Benefit as of the end of such Taxable Year, over the total amount of payments previously made under the first sentence of Section 3.1(a) (excluding payments attributable to Interest Amounts); **provided**, for the avoidance of doubt, that no such recipient shall be required to return any portion of any previously made Tax Benefit Payment. The "**Interest Amount**" shall equal the interest on the Net Tax Benefit calculated at the Agreed Rate from the due date (without extensions) for filing IRS Form 1120 (or any successor form) of PubCo with respect to Taxes for such Taxable Year until the payment date under Section 3.1(a).

Section 3.2 **No Duplicative Payments**. It is intended that the provisions of this Agreement will not result in duplicative payment of any amount (including interest) required under this Agreement. The provisions of this Agreement shall be construed in the appropriate manner to ensure such intentions are realized.

Section 3.3 **Pro Rata Payments**. Notwithstanding anything in Section 3.1 to the contrary, to the extent that the aggregate Realized Tax Benefit of PubCo with respect to the Tax Attributes is limited in a particular Taxable Year because PubCo does not have sufficient taxable income, the Net Tax Benefit for PubCo shall be allocated among all parties eligible for Tax Benefit Payments under this Agreement (i) by taking into account any ordering rules that apply under the Code (including Sections 172 and 1212) and applicable state, local or foreign Tax laws concerning the use of Tax Attributes and Tax items attributable to Tax Attributes and (ii) after such ordering rules have been taken into account, in proportion to the amounts of Net Tax Benefit, as such term is defined in this Agreement, that would have been Attributable to each such party if PubCo had sufficient taxable income to use all Tax Attributes of like rank within such ordering without limitation.



Section 3.4 **Payment Ordering**. If for any reason PubCo does not fully satisfy its payment obligations to make all Tax Benefit Payments due under this Agreement in respect of a particular Taxable Year, then PubCo and the TRA Parties agree that (i) Tax Benefit Payments for such Taxable Year shall be allocated to all parties eligible for Tax Benefit Payments under this Agreement in proportion to the amounts of the Tax Benefit Payments that would have been made to each TRA Party if PubCo had sufficient cash available to make all Tax Benefit Payments due for such Taxable Year and (ii) no Tax Benefit Payments shall be made in respect of any Taxable Year under this Agreement until all Tax Benefit Payments to all TRA Parties in respect of all prior Taxable Years have been made in full.

## ARTICLE IV

## TERMINATION

Section 4.1 **Early Termination of Agreement; Breach of Agreement**.

(a) PubCo, upon a determination to do so by its independent directors, may terminate this Agreement with respect to all amounts payable to the TRA Parties and with respect to all of the Units held by the TRA Parties at any time by paying to each TRA Party the Early Termination Payment in respect of such TRA Party; **provided**, **however**, **that** this Agreement shall only terminate upon the receipt of the Early Termination Payment by all TRA Parties, and provided, further, that PubCo may withdraw any notice to execute its termination rights under this Section 4.1(a) prior to the time at which any Early Termination Payment has been paid. Upon payment of the Early Termination Payment by PubCo, none of the TRA Parties or PubCo shall have any further payment obligations under this Agreement, other than for any (a) Tax Benefit Payments due and payable and that remain unpaid as of the Early Termination Notice and (b) Tax Benefit Payment due for the Taxable Year ending with or including the date of the Early Termination Notice (except to the extent that the amount described in clause (b) is included in the Early Termination Payment). If an Exchange occurs after PubCo makes all of the required Early Termination Payments, PubCo shall have no obligations under this Agreement with respect to such Exchange.



(b) In the event that PubCo (I) breaches any of its material obligations under this Agreement, whether as a result of failure to make any payment when due, failure to honor any other material obligation required hereunder or by operation of law as a result of the rejection of this Agreement in a case commenced under the Bankruptcy Code or otherwise or (II)(A) shall commence any case, proceeding or other action (i) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate a bankruptcy or insolvency, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts or (ii) seeking an appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or it shall make a general assignment for the benefit of creditors or (B) there shall be commenced against PubCo any case, proceeding or other action of the nature referred to in clause (A) above that remains undismissed or undischarged for a period of sixty (60) calendar days, all obligations hereunder shall be automatically accelerated and shall be immediately due and payable, and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such breach (in the case of clause (I)), the date of commencement (in the case of clause (II)(A)) or the date that immediately follows such sixty (60) calendar day period (in the case of clause (II)(B)) (the "**Applicable Date**") and shall include, but not be limited to, (1) the Early Termination Payments calculated as if an Early Termination Notice had been delivered on the Applicable Date, (2) any Tax Benefit Payment due and payable and that remains unpaid as of the Applicable Date, and (3) any Tax Benefit Payment in respect of any TRA Party due for the Taxable Year ending with or including the Applicable Date; provided that procedures similar to the procedures of Section 4.2 shall apply with respect to the determination of the amount payable by PubCo pursuant to this sentence. Notwithstanding the foregoing (other than as set forth in subsection (II) above), in the event that PubCo breaches this Agreement, each TRA Party shall be entitled to elect to receive the amounts set forth in clauses (1), (2) and (3) above or to seek specific performance of the terms hereof. The parties agree that the failure to make any payment due pursuant to this Agreement within three (3) months of the date such payment is due shall be deemed to be a breach of a material obligation under this Agreement for all purposes of this Agreement, and that it will not be considered to be a breach of a material obligation under this Agreement to make a payment due pursuant to this Agreement within three (3) months of the date such payment is due. Notwithstanding anything in this Agreement to the contrary, it shall not be a breach of a material obligation of this Agreement if PubCo fails to make any Tax Benefit Payment or payment made with respect to Section 4.1(c) when due to the extent that PubCo has insufficient funds to make such payment; provided, that the interest provisions of Section 5.2 shall apply to such late payment (unless PubCo does not have sufficient funds to make such payment as a result of limitations imposed by any Senior Obligations, in which case Section 5.2 shall apply, but the Default Rate shall be replaced by the Agreed Rate).

(c) In the event of a Change of Control, all obligations hereunder shall be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such Change of Control and utilizing the Valuation Assumptions by substituting in each case the terms "the closing date of a Change of Control" in each place where the phrase "Early Termination Date" appears. Such obligations shall include, but not be limited to, (1) the Early Termination Payments calculated as if the Early Termination Date is the date of such Change of Control, (2) any Tax Benefit Payment due and payable and that remains unpaid as of the date of such Change of Control, and (3) any Tax Benefit Payment in respect of any TRA Party due for any Taxable Year ending prior to, with or including the date of such Change of Control (except to the extent that any amounts described in clause (2) or (3) are

included in the Early Termination Payments). For the avoidance of doubt, Sections 4.2 and 4.3 shall apply to a Change of Control, *mutatis mutandis*.



Section 4.2 **Early Termination Notice**. If PubCo chooses to exercise its right of early termination under Section 4.1 above, PubCo shall deliver to each TRA Party notice of such intention to exercise such right ("**Early Termination Notice**") and a schedule (the "**Early Termination Schedule**") specifying PubCo's intention to exercise such right and showing in reasonable detail the calculation of the Early Termination Payment(s) due for each TRA Party. Each Early Termination Schedule shall become final and binding on all parties thirty (30) calendar days from the first date on which all TRA Parties are treated as having received such Schedule or amendment thereto under Section 7.1 unless the TRA Party Representative (i) within thirty (30) calendar days after such date provides PubCo with notice of a material objection to such Schedule made in good faith ("**Material Objection Notice**") or (ii) provides a written waiver of such right of a Material Objection Notice within the period described in clause (i) above, in which case such Schedule becomes binding on the date the waiver is received by PubCo. If PubCo and the TRA Party Representative, for any reason, are unable to successfully resolve the issues raised in such notice within thirty (30) calendar days after receipt by PubCo of the Material Objection Notice, PubCo and the TRA Party Representative shall employ the Reconciliation Procedures in which case such Schedule becomes binding ten (10) calendar days after the conclusion of the Reconciliation Procedures. The TRA Party Representative will fairly represent the interests of each of the TRA Parties and shall timely raise and pursue, in accordance with this Section 4.2, any reasonable objection to an Early Termination Schedule or amendment thereto timely communicated in writing to the TRA Party Representative by a TRA Party.

Section 4.3 **Payment upon Early Termination**.

(a) Within three (3) calendar days after an Early Termination Effective Date, PubCo shall pay to each TRA Party an amount equal to the Early Termination Payment in respect of such TRA Party. Such payment shall be made by wire transfer of immediately available funds to a bank account or accounts designated by such TRA Party or as otherwise agreed by PubCo and such TRA Party or, in the absence of such designation or agreement, by check mailed to the last mailing address provided by such TRA Party to PubCo.

(b) "**Early Termination Payment**" in respect of a TRA Party shall equal the present value, discounted at the Early Termination Rate as of the applicable Early Termination Effective Date, of all Tax Benefit Payments in respect of such TRA Party that would be required to be paid by PubCo beginning from the Early Termination Date and assuming that the Valuation Assumptions in respect of such TRA Party are applied and that each Tax Benefit Payment for the relevant Taxable Year would be due and payable on the due date (without extensions) under applicable law as of the Early Termination Effective Date for filing of IRS Form 1120 (or any successor form) of PubCo.



## ARTICLE V

## SUBORDINATION AND LATE PAYMENTS

Section 5.1 **Subordination**. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payment or payments made with respect to Section 4.1(c) required to be made by PubCo to the TRA Parties under this Agreement shall rank subordinate and junior in right of payment to any principal, interest or other amounts due and payable in respect of any obligations in respect of indebtedness for borrowed money of PubCo and its Subsidiaries ("**Senior Obligations**") and shall rank *pari passu* in right of payment with all current or future unsecured obligations of PubCo that are not Senior Obligations. To the extent that any payment under this Agreement is not permitted to be made at the time payment is due as a result of this Section 5.1 and the terms of agreements governing Senior Obligations, such payment obligation nevertheless shall accrue for the benefit of TRA Parties and PubCo shall make such payments at the first opportunity that such payments are permitted to be made in accordance with the terms of the Senior Obligations. Notwithstanding any other provision of this Agreement to the contrary, to the extent that PubCo or any of its Affiliates enters into future Tax receivables or other similar agreements ("**Future TRAs**"), PubCo shall ensure that the terms of any such Future TRA shall provide

that the Tax Attributes subject to this Agreement are considered senior in priority to any Tax attributes subject to any such Future TRA for purposes of calculating the amount and timing of payments under any such Future TRA.

Section 5.2 **Late Payments by PubCo**. Subject to the proviso in the last sentence of Section 4.1(b), the amount of all or any portion of any Tax Benefit Payment or Early Termination Payment not made to the TRA Parties when due under the terms of this Agreement, whether as a result of Section 5.1 or otherwise, shall be payable together with any interest thereon, computed at the Default Rate and commencing from the date on which such Tax Benefit Payment or Early Termination Payment was first due and payable to the date of actual payment.

## ARTICLE VI

## NO DISPUTES; CONSISTENCY; COOPERATION

Section 6.1 **Participation in PubCo's and OpCo's Tax Matters**. Except as otherwise provided herein, and except as provided in the LP Agreement, PubCo shall have full responsibility for, and sole discretion over, all Tax matters concerning PubCo and OpCo, including, without limitation, the preparation, filing or amending of any Tax Return and defending, contesting or settling any issue pertaining to Taxes. Notwithstanding the foregoing, PubCo shall notify the TRA Party Representative of, and keep the TRA Party Representative reasonably informed with respect to, the portion of any audit of PubCo and OpCo by a Taxing Authority the outcome of which is reasonably expected to materially affect the rights and obligations of a TRA Party under this Agreement, and shall provide to the TRA Party Representative reasonable opportunity to provide information and other input to PubCo, OpCo and their respective advisors concerning the conduct of any such portion of such audit; provided, however, that PubCo and OpCo shall not be required to take any action that is inconsistent with any provision of the LP Agreement.

Section 6.2 **Consistency**. PubCo and the TRA Parties agree to report and cause to be reported for all purposes, including United States federal, state and local Tax purposes and financial reporting purposes, all Tax-related items (including, without limitation, the Basis Adjustments and each Tax Benefit Payment) in a manner consistent with that contemplated by this Agreement or specified by PubCo in any Schedule required to be provided by or on behalf of PubCo under this Agreement unless otherwise required by law. PubCo shall (and shall cause OpCo and its other Subsidiaries to) use commercially reasonable efforts (for the avoidance of doubt, taking into account the interests and entitlements of all TRA Parties under this Agreement) to defend the Tax treatment contemplated by this Agreement and any Schedule in any audit, contest or similar proceeding with any Taxing Authority.



Section 6.3 **Cooperation**. Each of the TRA Parties shall (a) furnish to PubCo in a timely manner such information, documents and other materials as PubCo may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return or contesting or defending any audit, examination or controversy with any Taxing Authority, (b) make itself available to PubCo and its representatives to provide explanations of documents and materials and such other information as PubCo or its representatives may reasonably request in connection with any of the matters described in clause (a) above, and (c) reasonably cooperate in connection with any such matter, and PubCo shall reimburse each such TRA Party for any reasonable and documented out-of-pocket costs and expenses incurred pursuant to this Section 6.3. Upon the request of any TRA Party, PubCo shall cooperate in taking any action reasonably requested by such TRA Party in connection with its tax or financial reporting and/or the consummation of any assignment or transfer of any of its rights and/or obligations under this Agreement, including without limitation, providing any information or executing any documentation.

## ARTICLE VII

## MISCELLANEOUS

Section 7.1 **Notices**. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed duly given and received (a) on the date of delivery if delivered personally, or by email or (b) on the first Business Day following the date of dispatch if delivered by a recognized next-day courier service. All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice:

If to PubCo, to:

Preston Hollow Community Capital Inc.
1717 Main Street, Suite 3900Dallas, Texas 75201
Attention: Paige Deskin, Chief Finance Officer
Email: pdeskin@phcllc.com

If to the TRA Parties, to the respective address and email address set forth in the records of OpCo.

Any party may change its address or email by giving the other party written notice of its new address or email in the manner set forth above.

Section 7.2 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. Delivery of an executed signature page to this Agreement by email shall be as effective as delivery of a manually signed counterpart of this Agreement.



Section 7.3 **Entire Agreement; No Third Party Beneficiaries**. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 7.4 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

Section 7.5 **Severability**. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

Section 7.6 **Successors; Assignment; Amendments; Waivers**.

(a) Each TRA Party may assign all or any portion of its rights under this Agreement to any Person as long as such transferee has executed and delivered, or, in connection with such transfer, executes and delivers, a joinder to this Agreement, substantially in form of **Exhibit A** hereto, agreeing to become a TRA Party for all purposes of this Agreement, except as otherwise provided in such joinder.

(b) No provision of this Agreement may be amended unless such amendment is approved in writing by each of PubCo and by the TRA Parties who would be entitled to receive at least two-thirds of the total amount of the Early Termination Payments payable to all TRA Parties hereunder if PubCo had exercised its right of early termination on the date of the most recent Exchange prior to such amendment (excluding, for purposes of this sentence, all payments made to any TRA Party pursuant to this Agreement since the date of such most recent Exchange); provided, that no such amendment shall be effective if such amendment will have a disproportionate effect on the payments one or more TRA Parties receive under this Agreement unless such amendment is consented in writing by such TRA Parties disproportionately affected who would be entitled to receive at least two-thirds of the total amount of the Early Termination Payments payable to all TRA Parties disproportionately affected hereunder if PubCo had exercised its right of early termination on the date of the most recent Exchange prior to such amendment (excluding, for purposes of this sentence, all payments made to any TRA Party pursuant to this Agreement since the date of such most recent Exchange); provided further, that no such amendment may adversely affect PHC unless such amendment is consented in writing by PHC. No provision of this Agreement may be waived unless such waiver is in writing and signed by the party against whom the waiver is to be effective. Notwithstanding anything otherwise to the contrary, if the TRA Representative shall jointly propose an amendment to this Agreement that is necessary or appropriate in order to ensure that the respective rights and obligations of the TRA Parties under this Agreement are equal and ratable in all material respects as though they were all party to the same agreement, PubCo shall not unreasonably withhold its consent to such amendment, whereupon such

amendment will become effective without the consent of any other party provided that no such amendment shall have a material adverse effect on PubCo.



(c) All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and their respective successors, assigns, heirs, executors, administrators and legal representatives. PubCo shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of PubCo, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that PubCo would be required to perform if no such succession had taken place.

Section 7.7 **Titles and Subtitles**. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.8 **Resolution of Disputes**.

(a) Any and all disputes which are not governed by Section 7.9 and cannot be settled amicably, including any ancillary claims of any party, arising out of, relating to or in connection with the validity, negotiation, execution, interpretation, performance or non-performance of this Agreement (including the validity, scope and enforceability of this arbitration provision) (each a "**Dispute**") shall be finally settled by arbitration conducted by a single arbitrator in New York in accordance with the then-existing Rules of Arbitration of the International Chamber of Commerce. If the parties to the Dispute fail to agree on the selection of an arbitrator within thirty (30) calendar days of the receipt of the request for arbitration, the International Chamber of Commerce shall make the appointment. The arbitrator shall be a lawyer admitted to the practice of law in the State of New York and shall conduct the proceedings in the English language. Performance under this Agreement shall continue if reasonably possible during any arbitration proceedings.

(b) Notwithstanding the provisions of paragraph (a), PubCo may bring an action or special proceeding in any court of competent jurisdiction for the purpose of compelling a party to arbitrate, seeking temporary or preliminary relief in aid of an arbitration hereunder, and/or enforcing an arbitration award and, for the purposes of this paragraph (b), each TRA Party (i) expressly consents to the application of paragraph (c) of this Section 7.8 to any such action or proceeding, (ii) agrees that proof shall not be required that monetary damages for breach of the provisions of this Agreement would be difficult to calculate and that remedies at law would be inadequate, and (iii) irrevocably appoints PubCo as agent of such TRA Party for service of process in connection with any such action or proceeding and agrees that service of process upon such agent, who shall promptly advise the TRA Party of any such service of process, shall be deemed in every respect effective service of process upon the TRA Party in any such action or proceeding.



(c) (i) EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF COURTS LOCATED IN NEW YORK, NEW YORK FOR THE PURPOSE OF ANY JUDICIAL PROCEEDING BROUGHT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION 7.8, OR ANY JUDICIAL PROCEEDING ANCILLARY TO AN ARBITRATION OR CONTEMPLATED ARBITRATION ARISING OUT OF OR RELATING TO OR CONCERNING THIS AGREEMENT. Such ancillary judicial proceedings include any suit, action or proceeding to compel arbitration, to obtain temporary or preliminary judicial relief in aid of arbitration, or to confirm an arbitration award. The parties acknowledge that the fora designated by this paragraph (c) have a reasonable relation to this Agreement, and to the parties' relationship with one another; and

(ii) The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter may have to personal jurisdiction or to the laying of venue of any such ancillary suit, action or proceeding brought in any court referred to in the preceding paragraph of this Section 7.8 and such parties agree not to plead or claim the same.

Section 7.9 **Reconciliation**. In the event that PubCo and the TRA Party Representative are unable to resolve a disagreement with respect to the matters governed by Sections 2.3 and 4.2 within the relevant period designated in this Agreement ("**Reconciliation Dispute**"), the Reconciliation Dispute shall be submitted for determination to a nationally recognized expert (the "**Expert**") in the particular area of disagreement mutually acceptable to both parties. The Expert shall be a partner or principal in a

nationally recognized accounting or law firm, and unless PubCo and the TRA Party Representative agree otherwise, the Expert shall not, and the firm that employs the Expert shall not, have any material relationship with PubCo or the TRA Party Representative or other actual or potential conflict of interest. If PubCo and the TRA Party Representative are unable to agree on an Expert within fifteen (15) calendar days of receipt by the respondent(s) of written notice of a Reconciliation Dispute, then the Expert shall be appointed by the International Chamber of Commerce Centre for Expertise. The Expert shall resolve any matter relating to the TRA Party's Basis Schedule or an amendment thereto or the Early Termination Schedule or an amendment thereto within thirty (30) calendar days and shall resolve any matter relating to a Tax Benefit Schedule or an amendment thereto within fifteen (15) calendar days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid on the date prescribed by this Agreement and such Tax Return may be filed as prepared by PubCo, subject to adjustment or amendment upon resolution. The costs and expenses relating to the engagement of such Expert or amending any Tax Return shall be borne by PubCo except as provided in the next sentence. PubCo and the TRA Party Representative shall bear their own costs and expenses of such proceeding, unless (i) the Expert adopts the TRA Party Representative's position, in which case PubCo shall reimburse the TRA Party Representative for any reasonable out-of-pocket costs and expenses in such proceeding, or (ii) the Expert adopts PubCo's position, in which case the TRA Party Representative shall reimburse PubCo for any reasonable out-of-pocket costs and expenses in such proceeding. Any dispute as to whether a dispute is a Reconciliation Dispute within the meaning of this Section 7.9 shall be decided by the Expert. The Expert shall finally determine any Reconciliation Dispute and the determinations of the Expert pursuant to this Section 7.9 shall be binding on PubCo and each of the TRA Parties and may be entered and enforced in any court having jurisdiction.



Section 7.10 **Withholding**. PubCo shall be entitled to deduct and withhold from any payment payable pursuant to this Agreement such amounts as PubCo is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or foreign Tax law. To the extent that amounts are so withheld and paid over to the appropriate Taxing Authority by PubCo, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such withholding was made. To the extent that any payment pursuant to this Agreement is not reduced by such deductions or withholdings, such recipient shall indemnify the applicable withholding agent for any amounts imposed by any Taxing Authority together with any costs and expenses related thereto. Each TRA Party shall promptly provide PubCo, OpCo or other applicable withholding agent with any applicable Tax forms and certifications (including IRS Form W-9 or the applicable version of IRS Form W-8) reasonably requested, in connection with determining whether any such deductions and withholdings are required under the Code or any provision of United States state, local or foreign Tax law.

Section 7.11 **Admission of PubCo into a Consolidated Group; Transfers of Corporate Assets**.

(a) If PubCo is or becomes a member of an affiliated or consolidated group of corporations that files a consolidated income Tax Return pursuant to Sections 1501 et seq. of the Code or any corresponding provisions of state or local law, then: (i) the provisions of this Agreement shall be applied with respect to the group as a whole; and (ii) Tax Benefit Payments, Early Termination Payments and other applicable items hereunder shall be computed with reference to the consolidated taxable income of the group as a whole.

(b) If PubCo (or any member of a group described in Section 7.11(a)) transfers or is deemed to transfer any Unit or any Reference Asset to a transferee that is treated as a corporation for United States federal income Tax purposes (other than a member of a group described in Section 7.11(a)) in a transaction in which the transferee's basis in the property acquired is determined in whole or in part by reference to such transferor's basis in such property, then PubCo shall cause such transferee to assume the obligation to make payments hereunder with respect to the applicable Tax Attributes associated with any Reference Asset or interest therein acquired (directly or indirectly) in such transfer (taking into account any gain recognized in the transaction) in a manner consistent with the terms of this Agreement as the transferee (or one of its Affiliates) actually realizes Tax benefits from the Tax Attributes. If OpCo transfers (or is deemed to transfer for United States federal income Tax purposes) any Reference Asset to a transferee that is treated as a corporation for United States federal income Tax purposes (other than a member of a group described in Section 7.11(a)) in a transaction in which the transferee's basis in the property acquired is determined in whole or in part by reference to such transferor's basis in such property, OpCo shall be treated as having disposed of the Reference Asset in a wholly taxable transaction. The consideration deemed to be received by OpCo in a transaction contemplated in the prior sentence shall be equal to the fair market value of the deemed transferred asset, plus (i) the amount of debt to which such asset is subject, in the case of a transfer of an encumbered asset or (ii) the amount of debt allocated to such asset, in the case of a transfer of a partnership interest. If any member of a group described in Section 7.11(a) that owns any

Unit deconsolidates from the group (or PubCo deconsolidates from the group), then PubCo shall cause such member (or the parent of the consolidated group in a case where PubCo deconsolidates from the group) to assume the obligation to make payments hereunder with respect to the applicable Tax Attributes associated with any Reference Asset it owns (directly or indirectly) in a manner consistent with the terms of this Agreement as the member (or one of its Affiliates) actually realizes Tax benefits. If a transferee or a member of a group described in Section 7.11(a) assumes an obligation to make payments hereunder pursuant to either of the foregoing sentences, then the initial obligor is relieved of the obligation assumed.



(c) If PubCo (or any member of a group described in Section 7.11(a)) transfers (or is deemed to transfer for United States federal income Tax purposes) any Unit in a transaction that is wholly or partially taxable, then for purposes of calculating payments under this Agreement, OpCo shall be treated as having disposed of the portion of any Reference Asset that is indirectly transferred by PubCo (*i.e.*, taking into account the number and type of Units transferred) in a wholly or partially taxable transaction in which all income, gain or loss is allocated to PubCo. The consideration deemed to be received by OpCo shall be equal to the fair market value of the deemed transferred asset, plus (i) the amount of debt to which such asset is subject, in the case of a transfer of an encumbered asset or (ii) the amount of debt allocated to such asset, in the case of a transfer of a partnership interest.

Section 7.12 **Confidentiality**.

(a) Subject to the last sentence of Section 6.3, each TRA Party and each of their assignees acknowledge and agree that the information of PubCo is confidential and, except in the course of performing any duties as necessary for PubCo and its Affiliates, as required by law or legal process or to enforce the terms of this Agreement, such person shall keep and retain in the strictest confidence and not disclose to any Person any confidential matters, acquired pursuant to this Agreement, of PubCo and its Affiliates and successors, concerning OpCo and its Affiliates and successors or the Members, learned by the TRA Party heretofore or hereafter. This Section 7.12 shall not apply to (i) any information that has been made publicly available by PubCo or any of its Affiliates, becomes public knowledge (except as a result of an act of the TRA Party in violation of this Agreement) or is generally known to the business community and (ii) the disclosure of information to the extent necessary for the TRA Party to prepare and file its Tax Returns, to respond to any inquiries regarding the same from any Taxing Authority or to prosecute or defend any action, proceeding or audit by any Taxing Authority with respect to such returns. Notwithstanding anything to the contrary herein, each TRA Party and each of their assignees (and each employee, representative or other agent of the TRA Party or its assignees, as applicable) may disclose to any and all Persons, without limitation of any kind, the Tax treatment and Tax structure of PubCo, OpCo and their Affiliates, and any of their transactions, and all materials of any kind (including opinions or other Tax analyses) that are provided to the TRA Party relating to such Tax treatment and Tax structure.

(b) If a TRA Party or an assignee commits a breach, or threatens to commit a breach, of any of the provisions of this Section 7.12, PubCo shall have the right and remedy to have the provisions of this Section 7.12 specifically enforced by injunctive relief or otherwise by any court of competent jurisdiction without the need to post any bond or other security, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to PubCo or any of its Subsidiaries or the TRA Parties and the accounts and funds managed by PubCo and that money damages alone shall not provide an adequate remedy to such Persons. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies available at law or in equity.



Section 7.13 **Change in Law**. Notwithstanding anything herein to the contrary, if, in connection with an actual or proposed change in law, a TRA Party reasonably believes that the existence of this Agreement could cause income (other than income arising from receipt of a payment under this Agreement) recognized by the TRA Party upon any Exchange by such TRA Party to be treated as ordinary income rather than capital gain (or otherwise taxed at ordinary income rates) for United States federal income Tax purposes or would have other material adverse Tax consequences to such TRA Party, then at the election of such TRA Party and to the extent specified by such TRA Party, this Agreement (i) shall cease to have further effect with respect to such TRA Party, (ii) shall not apply to an Exchange by such TRA Party occurring after a date specified by such TRA Party, or (iii) shall otherwise be amended in a manner determined by such TRA Party, provided that such amendment shall not result in an increase in payments under this Agreement at any time as compared to the amounts and times of payments that would have been due in the absence of such amendment.

Section 7.14 **TRA Party Representative**. By executing this Agreement, each of the TRA Parties shall be deemed to have irrevocably constituted the TRA Party Representative as his, her or its agent and attorney in fact with full power of substitution to act from and after the date hereof and to do any and all things and execute any and all documents on behalf of such TRA Parties which may be necessary, convenient or appropriate to facilitate any matters under this Agreement, including but not limited to: (i) execution of the documents and certificates required pursuant to this Agreement; (ii) except to the extent specifically provided in this Agreement receipt and forwarding of notices and communications pursuant to this Agreement; (iii) administration of the provisions of this Agreement; (iv) any and all consents, waivers, amendments or modifications deemed by the TRA Party Representative, in its sole and absolute discretion, to be necessary or appropriate under this Agreement and the execution or delivery of any documents that may be necessary or appropriate in connection therewith; (v) amending this Agreement or any of the instruments to be delivered to PubCo pursuant to this Agreement; (vi) taking actions the TRA Party Representative is expressly authorized to take pursuant to the other provisions of this Agreement; (vii) negotiating and compromising, on behalf of such TRA Parties, any dispute that may arise under, and exercising or refraining from exercising any remedies available under, this Agreement or any other agreement contemplated hereby and executing, on behalf of such TRA Parties, any settlement agreement, release or other document with respect to such dispute or remedy; and (viii) engaging attorneys, accountants, agents or consultants on behalf of such TRA Parties in connection with this Agreement or any other agreement contemplated hereby and paying any fees related thereto. The TRA Party Representative may resign upon thirty (30) days' written notice to PubCo. All reasonable, documented out-of-pocket costs and expenses incurred by the TRA Party Representative in its capacity as such shall be promptly reimbursed by PubCo upon invoice and reasonable support therefor by the TRA Party Representative. To the fullest extent permitted by law, none of the TRA Party Representative, any of its Affiliates, or any of the TRA Party Representative's or Affiliates' directors, officers, employees or other agents (each a "**Covered Person**") shall be liable, responsible or accountable in damages or otherwise to any TRA Party, OpCo or PubCo for damages arising from any action taken or omitted to be taken by the TRA Party Representative or any other Person with respect to OpCo or PubCo, except in the case of any action or omission which constitutes, with respect to such Person, willful misconduct or fraud. Each of the Covered Persons may consult with legal counsel, accountants, and other experts selected by it, and any act or omission suffered or taken by it on behalf of OpCo or PubCo or in furtherance of the interests of OpCo or PubCo in good faith in reliance upon and in accordance with the advice of such counsel, accountants, or other experts shall create a rebuttable presumption of the good faith and due care of such Covered Person with respect to such act or omission; provided, that such counsel, accountants, or other experts were selected with reasonable care. Each of the Covered Persons may rely in good faith upon, and shall have no liability to OpCo, PubCo or the TRA Parties for acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

[*The remainder of this page is intentionally blank*]



IN WITNESS WHEREOF, PubCo and each TRA Party have duly executed this Agreement as of the date first written above.

PUBCO:

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

By: _____
Name:
Title:

[*Signature Page to Tax Receivables Agreement*]

TRA PARTY REPRESENTATIVE:

PRESTON HOLLOW CAPITAL, LLC

By: _____
Name:
Title:

[*Signature Page to Tax Receivables Agreement*]

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TRA PARTY:

PRESTON HOLLOW CAPITAL, LLC

By: _____
Name:
Title:

[*Signature Page to Tax Receivables Agreement*]

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**EXHIBIT A**

**FORM OF JOINDER**

This JOINDER (this "**Joinder**") to the Tax Receivables Agreement (as defined below), is by and among Preston Hollow Community Capital, Inc., a Delaware corporation (including any successor corporation "**PubCo**"), _____ ("**Transferor**") and _____ ("**Permitted Transferee**").

WHEREAS, on _____, Permitted Transferee shall acquire _____ percent of the Transferor's right to receive payments that may become due and payable under the Tax Receivables Agreement (as defined below) (the "**Acquired Interests**") from Transferor (the "**Acquisition**"); and

WHEREAS, Transferor, in connection with the Acquisition, has required Permitted Transferee to execute and deliver this Joinder pursuant to Section 7.6(a) of the Tax Receivables Agreement, dated as of [_], 2021, between PubCo, and the TRA Parties (as defined therein) (the "**Tax Receivables Agreement**").

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

Section 1.1 **Definitions**. To the extent capitalized words used in this Joinder are not defined in this Joinder, such words shall have the respective meanings set forth in the Tax Receivables Agreement.

Section 1.2 **Acquisition**. For good and valuable consideration, the sufficiency of which is hereby acknowledged by the Transferor and the Permitted Transferee, the Transferor hereby transfers and assigns absolutely to the Permitted Transferee all of the Acquired Interests.

Section 1.3 **Joinder**. Permitted Transferee hereby acknowledges and agrees (i) that it has received and read the Tax Receivables Agreement, (ii) that the Permitted Transferee is acquiring the Acquired Interests in accordance with and subject to the terms and conditions of the Tax Receivables Agreement and (iii) to become a "TRA Party" (as defined in the Tax Receivables Agreement) for all purposes of the Tax Receivables Agreement.

Section 1.4 **Notice**. Any notice, request, consent, claim, demand, approval, waiver or other communication hereunder to Permitted Transferee shall be delivered or sent to Permitted Transferee at the address set forth on the signature page hereto in accordance with Section 7.1 of the Tax Receivables Agreement.

Section 1.5 **Governing Law**. This Joinder shall be governed by and construed in accordance with the law of the State of New York.



IN WITNESS WHEREOF, this Joinder has been duly executed and delivered by Permitted Transferee as of the date first above written.

PRESTON HOLLOW COMMUNITY CAPITAL, INC.

By: _____
Name
Title:

[TRANSFEROR]

By: _____
Name
Title:

[PERMITTED TRANSFEREE]

By: _____
Name
Title:

Address for notices:

**Exhibit 10.9**

# FORM OF EMPLOYMENT AGREEMENT

This Employment Agreement (as the same may be amended from time to time, this "**Agreement**"), is entered into as of [●] (the "**Effective Date**"), between PHCC OP, LP, a Delaware limited partnership (the "**Company**"), and Jim Thompson, an individual (the "**Executive**").

## R E C I T A L S

WHEREAS, the Company desires to employ the Executive, and the Executive has agreed to be employed by the Company, on the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Employment**. The Company hereby agrees to employ the Executive to serve in the capacities described in this Agreement, and the Executive agrees to accept such employment and perform such services, upon the terms and subject to the conditions set forth herein.

2. **Term**. Unless the Executive's employment shall sooner terminate pursuant to Section 9 hereof, the Company shall employ the Executive for a term commencing on the Effective Date and ending on the two (2) year anniversary of the Effective Date (the "**Initial Period**"). Effective upon the expiration of the Initial Period and of each Additional Period (as defined below), the Executive's employment hereunder shall be deemed to be automatically extended, upon the same terms and conditions, for an additional period of one (1) year (each, an "**Additional Period**"), in each such case, commencing upon the expiration of the Initial Period or the then current Additional Period, as the case may be, unless, at least sixty (60) days prior to the expiration of the Initial Period or such Additional Period, either party shall give written notice to the other (a "**Non-Extension Notice**") of its intention not to extend the Term (as defined below). The period during which the Executive is employed pursuant to this Agreement shall be referred to as the "**Term**."

3. **Duties and Responsibilities**.

(a) **Title**. The Executive shall hold the title of Chief Executive Officer and Chairman of the board of directors of Preston Hollow Community Capital, Inc. (the "**Corporation**") [and shall hold the positions and titles of other affiliates of other affiliates of the Corporation and the Company as are listed in Appendix A]**,** and shall have such authority and responsibility as is customary for such position consistent with the constituent documents of the Company (as the same may be amended from time to time, the "**Constituent Documents**") or as otherwise determined by the board of directors of the Corporation (the "**Board**").

(b) **Standard of Care**. The Executive shall at all times perform his duties and responsibilities honestly, diligently, in good faith and to the best of his ability and shall observe and comply with all of the policies and procedures established by the Company and the Board from time to time (including any employee handbook, compliance manual or code of ethics of the Company or any of its subsidiaries) that are applicable to the Company's senior executives, and with all applicable laws, rules and regulations imposed by any governmental or regulatory authorities.

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(c) **Devotion of Time**. The Executive will exercise his best efforts in furtherance of, and devote all of his business time (except for vacation as permitted hereunder and reasonable absence for illness) to, the operation of the business and affairs the Company and its subsidiaries; **provided**, **however**, **that** the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs and (ii) managing his and his family's personal investments, so long as such activities do not, individually or in the aggregate, (x) violate any covenants applicable to the Executive hereunder or under any other document, agreement or instrument to which the Executive is a party or (y) interfere with the performance of the Executive's duties and responsibilities as an employee of the Company and its subsidiaries in accordance with the terms hereof.

(d) **Situs of Work**. The Executive shall be principally based at the Company's executive headquarters in Dallas, Texas or such other locations agreed to by the Executive and the Company, subject to such reasonable travel as may be necessary to fulfill the Executive's obligations under this Agreement.

4. **Compensation**. As compensation for his services hereunder and in consideration of the covenants set forth in this Agreement:

(a) **Base Salary**. The Company shall pay to the Executive an annual base salary (the "**Base Salary**") equal to three hundred fifty thousand dollars ($350,000) per annum. The Executive's Base Salary shall be subject to annual review by the compensation committee of the Board and may be increased, but not decreased (except as described in Section 8(f)(ii) below), without the consent of the Executive, from time to time by the Board (or a committee of the Board) in its sole discretion. The Base Salary shall be payable in accordance with the Company's customary payroll practices and procedures and shall be prorated for any partial period during the Term.

(b) **Annual Performance Bonus**. In addition to Base Salary, the Executive shall be eligible to receive annual bonus compensation each fiscal year thereafter during the Term, in an amount to be determined for each such fiscal year by the compensation committee of the Board in its sole discretion based upon such committee's assessment of the Company and the Executive during the relevant fiscal year (the bonus for each respective year, the "**Annual Bonus**"). Except as provided in Section 9(c) below, the Executive shall not be entitled to receive an Annual Bonus unless he is employed by the Company through the date such Annual Bonus is paid. Any Annual Bonus shall be paid to the Executive in cash on or before March 15 of the year following the fiscal year to which such Annual Bonus relates.

5. **Executive Benefits**. The Executive shall be entitled to participate in all employee benefit plans and programs (including, without limitation, retirement, medical, disability and life insurance plans and programs) that are established and made generally available by the Company or one of its subsidiaries from time to time to its senior executives, subject, however, to the applicable eligibility requirements and other provisions of such plans and programs (including, without limitation, requirements as to position, tenure, location, salary, age and health). The Company shall have the unlimited right in its sole and absolute discretion to change its benefit plans and programs from time to time so long as any such change does not discriminate against the Executive and does not diminish the economic value of the Executive's compensation and benefits, and this Agreement shall be deemed automatically amended upon the effectiveness of such change.



6. **Vacation**. The Executive shall be entitled to three weeks of vacation per year in accordance with the Company's policies for senior executives of the Company, as modified from time to time, provided that such vacation shall not adversely interfere with the Executive's operation of the business and affairs of the Company and its subsidiaries.

7. **Reimbursement of Expenses**. The Company shall pay or reimburse the Executive for all reasonable, documented and necessary travel, business entertainment and other out-of-pocket expenses actually incurred by him in connection with the performance of his duties hereunder in accordance with the Company's travel policies and expense reimbursement guidelines or such other policies, procedures and limits of the Company as in effect from time to time (as determined by the Board) including, without limitation, the submission of reasonable written verification or receipts documenting such expenses.

8. **Termination**. The Executive's employment hereunder may be terminated as follows:

(a) **For Cause**. The Company shall have the right, in addition to any other rights and remedies that the Company may have (at law, in equity or otherwise), to immediately terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder by delivery of written notice to the Executive approved by the Board after the occurrence of any event constituting "Cause." For purposes of this Agreement, "**Cause**" shall mean: (i) the Executive has engaged in one or more acts constituting a felony; (ii) the Executive refuses to comply with direct instructions of the Chief Executive Officer, the Board or his or its designee that are consistent with Executive's duties to the Company and with relevant requirements of applicable law, as set forth in a written notice to Executive, such compliance to be within fifteen (15) days following such notice or such other time as may be reasonably required for such compliance as determined by the Company in good faith; (iii) the Executive engages in intentionally dishonest or willful misconduct; (iv) the Executive perpetrates a fraud, theft, or embezzlement or misappropriation against or affecting the Company, any subsidiary, any of their respective affiliates or any customer, client, agent, creditor, equity holder or employee of the Company, such subsidiary, or any of their respective affiliates; (v) the Executive breaches any material representation or warranty that such person made, or material obligation

that such person owes, to the Company or any of its subsidiaries or affiliates under this Agreement, the Operating Partnership Agreement of the Company, or any other written agreement, which breach, to the extent curable, is not cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary; (vi) the Executive is indicted on charges of, commits, or is convicted of, or enters a plea of guilty or *nolo contendere* to, a felony or a crime involving fraud or dishonesty; (vii) the Executive habitually abuses alcohol or controlled substances without a prescription or (viii) the Executive violates any Law or other regulations applicable to the Company, any subsidiary or any of their respective affiliates or breaches any of his duties to the Company, any subsidiary or any of their respective affiliates that in each case, for purposes of this clause (ix), materially and adversely affects the Company, any subsidiary or any of their respective affiliates, unless such action or conduct is curable and is cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary.



(b) **Death**. The Term shall automatically terminate without notice to either party in the event of the Executive's death.

(c) **Disability**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder in the event of Disability. For purposes of this Agreement, "**Disability**" shall mean that the Executive shall be unable to perform because of illness or incapacity, physical or mental, the essential functions, duties and responsibilities to be performed by the Executive for a consecutive period of one hundred and eighty (180) days during any consecutive twelve (12) month period.

(d) **Without Cause**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries at any time without Cause on ten (10) days prior written notice to the Executive.

(e) **Mutual Agreement**. The parties may terminate the Executive's employment with the Company or any of its subsidiaries hereunder upon their mutual written consent.

(f) **Good Reason**. The Executive may terminate the Term and his employment with the Company and any of its subsidiaries hereunder for good reason ("**Good Reason**") following the occurrence of one or more of the events constituting "Good Reason." For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of one or more of the following events (unless such event is curable, in which case such event will not constitute Good Reason unless such event remains uncured fifteen (15) days following receipt by the Company of written demand from the Executive to cure such event): (i) the Company's or any subsidiary's failure to pay any salary or any other material compensatory amounts due to the Executive when such payments or amounts are due; (ii) a reduction in the Executive's base salary (other than due to the Company's or its subsidiaries' financial performance or cash needs, and provided such reduction is applied in like proportion to all similarly situated executives of the Corporation or the Company); (iii) a relocation of the Executive's primary place of work to a site more than fifty (50) miles from the Executive's primary place of work as of the Effective Date resulting in a commute for the Executive of not less than an additional 50 miles; or (iv) a material diminution in the Executive's duties, responsibilities, authority or reporting lines. Notwithstanding anything to the contrary contained in this Agreement, in order for the Executive to terminate his employment hereunder for Good Reason, the Executive must provide written notice to the Company within the thirty (30) day period commencing upon the occurrence of the Good Reason.

(g) **Without Good Reason**. The Executive shall have the right to terminate the Term and the Executive's employment with the Company and any of its subsidiaries at any time without Good Reason on sixty (60) days prior written notice to the Company. The Company, in its sole discretion, may reduce or eliminate such notice period, provided that such termination shall continue to be deemed to be by Executive without Good Reason.



(h) **Effect of Termination**. Effective as of any date of termination of the Executive's employment with the Company or any of its subsidiaries, without any further action required by any party, the Executive shall be removed from, and shall no longer hold, all positions then held by him with the Company or any of its subsidiaries. The Executive agrees that he shall execute any documentation, resignations or similar documents reasonably necessary to give effect to the provisions of this Section 8(h).

(i) **Cessation of Professional Activity**. Upon delivery of a written notice of termination by any party, the Company may relieve the Executive of his duties and responsibilities and require the Executive to immediately cease all professional activity on behalf the Company and its subsidiaries. In addition, in the event that the Board determines that there is a reasonable basis for it to investigate whether circumstances exist that would, if true, permit the Board to terminate the Executive's employment for Cause, the Board may relieve the Executive of his duties and responsibilities during the pendency of such investigation. During any period that the Executive is relieved of duties and responsibilities pursuant to this Section 8(i), the Executive shall continue to be entitled to all salary, benefits, reimbursements, vesting of Incentive Common Units and any other consideration provided for under this Agreement.

9. **Payments Upon Termination**.

(a) **Payments Upon Termination (other than with Good Reason, without Cause or upon the Company's delivery of a Non-Extension Notice)**. If the Executive's employment with the Company or its subsidiaries shall be terminated during the Term as a result of any of the events set forth in Sections 8(a), (b), (c), (e) or (g) hereof or as a result of the Executive having terminated his employment with the Company for any reason, including the Executive's delivery of a Non-Extension Notice (other than pursuant to Section 8(f) hereof), then the Company shall:

(i) pay to the Executive (or his heirs and/or personal representatives) his Base Salary at the time of termination earned through the date of termination (to the extent not already paid); and

(ii) reimburse the Executive for any expenses for which the Executive is entitled to reimbursement under Section 7 hereof;

**provided that** upon the satisfaction of its obligations in this Section 9(a), the Company shall have no further obligation to the Executive under this Agreement.

(b) **Payments Upon Termination (upon the Company's delivery of a Non-Extension Notice)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated upon the Company's delivery of a Non-Extension Notice, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twelve (12) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9 (d) and such release becomes nonrevocable;



**provided that**, upon the satisfaction of its obligations in this Section 9(b), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Section 9(b)(ii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(c) **Payments Upon Termination (with Good Reason or without Cause)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated during the Term pursuant to Section 8(d) hereof (for a reason other than those covered by Sections 8(a), (b), (c), (e) or (g) hereof), or if the Executive shall terminate his employment pursuant to Section 8(f) hereof, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) pay to the Executive a pro rata Annual Bonus for the year in which such termination occurs in an amount equal to (a) 100% of the Annual Bonus earned by the Executive in the year prior to such termination multiplied by (b) a fraction, the numerator

of which is the number of days in such year from January 1 through the date of termination and the denominator of which is 365, payable as and when such Annual Bonus would have been payable had the Executive's employment not terminated; and

(iii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twenty-four (24) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9(d) and such release becomes nonrevocable;

**provided that**, upon the satisfaction of its obligations in this Section 9(c), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Sections 9(c)(ii) and 9(c)(iii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.



(d) **Release**. The Executive agrees, as a condition to receipt of any termination payments and benefits provided for in Sections 9(b)(ii), 9(c)(ii) and 9(c)(iii), that the Executive will execute a general release agreement, in form and substance reasonably satisfactory to the Company, releasing any and all claims the Executive may have arising out of the Executive's employment (other than enforcement of this Section 9) and deliver such executed release to the Company not later than fifty-two (52) days after the date of termination. The Company shall provide the form of release to the Executive within five (5) business days after termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason. The Executive shall not be entitled to receive any amount under Sections 9(b)(ii), 9(c)(ii) or 9(c)(iii) unless the release has become fully enforceable and nonrevocable prior to the sixtieth (60th) day after the date of termination.

10. **Confidential Information**.

(a) The Executive agrees to at all times during the Term and thereafter: (i) hold in the strictest confidence and neither use in any manner detrimental to the Company or any of its subsidiaries or affiliates, nor disclose, publish or divulge, directly or indirectly, to any individual or entity, any Confidential Information; and (ii) inform all other persons or entities to whom the Executive discloses Confidential Information of the proprietary interest and nature of such Confidential Information and of the recipient's obligations to keep such information confidential. The Executive agrees that the foregoing restrictions shall apply whether or not such information is marked "Confidential".

(b) For purposes of this Agreement, the term "**Confidential Information**" shall include, with respect to the Company and each of its subsidiaries, all data, information, reports, interpretations, forecasts and records, financial or otherwise, including all property owned by the Company and each of its subsidiaries or in which any of them have any rights and information related to the business or financial affairs of the Company and each of its subsidiaries, including but not limited to customer lists and accounts, prospective customer lists, customer data, systems, policies, manuals, advertising, marketing plans, marketing strategies, research, trade secrets, business plans, financial data, strategies, methods of conducting business, cost and pricing information, formulas, processes, procedures, standards, manuals, techniques, designs, technology, confidential reports, computer software, financial and performance results and other data, telephone and other contact lists, contract forms, catalogues, books, records, files and all other information, knowledge, or data of any kind or nature relating to the products, services, customers, financing sources, employees, investors or business of the Company and each of its subsidiaries. The term "Confidential Information" does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by any person having an obligation of confidentiality to the Company or any of its subsidiaries; (ii) was or becomes available to the Executive on a non-confidential basis from a source other than the Company and its subsidiaries and affiliates and other than in connection with the Executive's employment by the Company; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any of its subsidiaries with respect to such information; (iii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the Company, and the Company has had a reasonable opportunity to oppose such disclosure; or (iv) is disclosed with the written approval of the Board.

(c) If the Executive becomes legally required (whether by deposition, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar processes) to disclose any Confidential Information, he will provide the Company with prompt notice thereof so that the Company may seek a protective order or other appropriate remedy and the Executive will, at the Company's expense, cooperate with and assist the Company in securing such protective order or other remedy. In the event that such protective order is not obtained, or the Company waives compliance with the provisions of this Section 10 to permit a particular disclosure, the Executive shall furnish only that portion of the Confidential Information that he is advised by counsel in writing is legally required to be disclosed and shall exercise his reasonable best efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. The Executive further agrees that all memoranda, disks, files, notes, records or other documents that contain Confidential Information, whether in electronic form or hard copy, and whether created by the Executive or others, that come into his possession, shall be and shall remain the exclusive property of the Company to be used by the Executive only in the performance of his obligations hereunder.

(d) The Executive is hereby notified that 18 U.S.C. § 1833(b) states as follows: “An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.” Accordingly, notwithstanding any other provision of this Agreement to the contrary, the Executive has the right to (1) disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of the law or (2) disclose trade secrets in a document filed in a lawsuit or other proceeding so long as that filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

11. **Return of Documents and Property**. Upon termination of the Executive's employment with the Company or any of its subsidiaries (for any reason) or at any other time upon the request of the Company, the Executive (or his heirs or personal representatives): (a) shall deliver, or cause to be delivered, to the Company, and shall not retain, all memoranda, disks, files, notes, records, documents or other materials obtained in connection with the Executive's employment with the Company or any of its subsidiaries or which otherwise relate to the business of the Company and its subsidiaries (whether or not containing Confidential Information) and shall not retain any copies thereof in any format or storage medium (including computer disk or memory); (b) purge from any computer system in his possession, other than those owned by and returned to the Company or any of its subsidiaries, all computer files that contain or are based upon any Confidential Information and confirm such purging in writing to the Company; and (c) return any other property that rightfully belongs to the Company or any of its subsidiaries, including, without limitation, computers and cellular phones, in accordance with the Company's policy in effect from time to time.



12. **Non-Compete**. The Executive agrees during the period commencing on the date hereof and ending twenty-four (24) months following the conclusion of the Term (the "**Non-Compete Period**"), not to, directly or indirectly (including through any affiliate), (a) compete with Company or its subsidiaries or the business of the Company or its subsidiaries as conducted on the last date of the Term (the "**Business**") or (b) (other than as a director, employee, agent, consultant, shareholder, member or manager of the Business or the Company) as an individual proprietor, partner, shareholder, member, equity holder, officer, director, manager, employee, consultant, independent contractor, joint venturer, investor or lender or otherwise, participate in any business or enterprise engaged anywhere in the United States in the provision of any services that are the same as, substantially similar to or competitive with the services that the Company or any of its subsidiaries was selling or providing or, to the Executive's knowledge, actively planning to sell or provide, during the twelve months preceding the end of the Term (each, a "**Competing Business**"), provided that this clause (b) shall not be construed to prevent the Executive from being employed by a division or a subsidiary of a Competing Business if the Executive's services to such division or subsidiary do not, in fact, compete with the Company or any of its subsidiaries. The foregoing restrictions shall not be construed to prohibit the ownership by the Executive of (i) not more than three percent (3%) of any class of equity securities of any corporation having a class of equity securities registered pursuant to the Securities Exchange Act of 1934 (a "**public company**") that are publicly owned and regularly traded on any national securities exchange or over-the-counter market or (ii) debt instruments of any privately owned entity, governmental entity, governmental entity, quasi-governmental entity, bond issuer or public company, if, with respect to both clauses (i) and (ii), such ownership represents a personal investment and the Executive does not either directly or indirectly

in any way manage or exercise control of any such privately owned entity, governmental entity, quasi-governmental entity, bond issuer or public company, guarantee any of its financial obligations or otherwise take part in its business other than exercising the Executive's rights as a debt or equity holder, or seek to do any of the foregoing.

13. **Non-Solicitation of Vendors, Etc.** During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term (the "**Vendor Non-Solicitation Period**"), the Executive agrees not to, except as otherwise necessary or advisable in the performance of his duties as an officer, director, manager, employee or consultant of the Company, its subsidiaries, or any of their respective affiliates, directly or indirectly, on his behalf or on behalf of any other person or entity (a) induce or solicit any supplier, subcontractor, licensee, distributor, funding source or business relation, or any person or entity that was a supplier, subcontractor, licensee, distributor, funding source or business relation at any time during the twelve (12) months preceding the end of the Term, to cease doing business with the Business or the Company or any of its subsidiaries, or in any way negatively interfere with the relationship between any such supplier, subcontractor, licensee, distributor, funding source or business relation of the Business, the Company or any of their respective affiliates; (b) disclose the identity of any supplier, subcontractor, licensee, distributor, funding source or business relation of the Business or the Company or any of its subsidiaries to any person or entity if such relationship is confidential; or (c) attempt to do any of the foregoing, or knowingly assist, entice, induce or encourage any other person or entity to do or attempt to do any activity which, were it done by the Executive, would violate any provision of this Section 14.



14. **Non-Solicitation or Hire of Employees**. During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term, the Executive agrees that he shall not, directly or indirectly, solicit or in any manner encourage to leave the employ of the Company for an engagement in any capacity by another person or entity, or hire any employee or consultant of the Company or any person who was an employee or consultant of the Company at any time during the last six (6) months of the Term. Notwithstanding the foregoing, the Executive shall not by reason of this Agreement be precluded from engaging in general solicitations of employment not targeted at employees and consultants of the Company.

15. **Enforceability of Restrictive Covenants**.

(a) In the event that the Executive's employment with the Company or any of its subsidiaries (i) is terminated by the Company or such subsidiary for any reason other than for Cause (including the Company's delivery of a Non-Extension Notice) or (ii) the Executive terminates his employment with the Company for Good Reason, then the terms of both the Non-Compete Period and the Vendor Non-Solicitation Period shall be reduced such that they end on the twelve (12) month anniversary of the conclusion of the Term.

(b) The Executive hereby acknowledges and agrees that (i) the restrictions on his activities contained in Sections 10, 11, 12, 13 and 14 hereof are necessary for the reasonable protection of the Company, its subsidiaries and their goodwill and are a material inducement to the Company entering into this Agreement and (ii) a breach or threatened breach of any such provisions will cause irreparable harm to the Company and its subsidiaries for which there is no adequate remedy at law.

(c) The Executive agrees that in the event of any breach or threatened breach of any provision contained in Sections 10, 11, 12, 13 and 14 hereof, the Company shall be entitled, in addition to any other rights or remedies available to the Company at law, in equity or otherwise, to a temporary, preliminary or permanent injunction or injunctions and temporary restraining order or orders to prevent breaches of such provisions and to specifically enforce the terms and provisions thereof.

(d) The parties acknowledge that the time, scope and other provisions contained in Sections 10, 11, 12, 13 and 14 hereof are reasonable and necessary to protect the goodwill and business of the Company and its subsidiaries and affiliates. Notwithstanding the foregoing, if any covenant contained in Sections 10, 11, 12, 13 and 14 hereof is held to be unenforceable by reason of the time or scope, such covenant shall be interpreted to extend to the maximum time or scope for which it may be enforced as determined by a court making such determination, and such covenant shall only apply in its reduced form to the operation of such covenant in the particular jurisdiction in which such adjudication is made.

(e) In the event of any breach by the Executive of any of the restrictive covenants contained in Sections 10, 11, 12, 13 and 14 hereof, the running of the period of the applicable restriction shall be automatically tolled and suspended for the duration of such breach, and shall automatically recommence when such breach is remedied in order that the Company or any of its subsidiaries or affiliates shall receive the full benefit of the Executive's compliance with each of the covenants contained in Sections 10, 11, 12, 13 and 14 hereof.

(f) The provisions of Sections 11, 12, 13, 14 and 15 hereof are in addition to and supplement any other agreements, covenants or obligations to which the Executive is or may be bound from time to time, including agreements, covenants and obligations set forth in the Operating Partnership Agreement of the Company, the Equity Incentive Plan and any grant agreement.

16. **Representations and Warranties; Indemnity**. The Executive represents and warrants to the Company that the execution and delivery of this Agreement by him and the performance by him of his obligations hereunder shall not constitute (with or without notice or lapse of time or both) a breach or violation of a provision of any understanding, contract or commitment, written or oral, express or implied, to which the Executive is a party or to which the Executive is or may be bound, including, without limitation, any understanding, contract or commitment with any present or former employer, in each case, that imposes restrictions that would, or would reasonably be expected to, interfere with the Executive's ability to perform his obligations under this Agreement. The Executive hereby agrees to indemnify and hold the Company harmless from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by the Company in connection with any such breach or violation by the Executive of any such understanding, contract or commitment.

17. **Taxes**. Payment of all compensation and benefits to the Executive by the Company shall be subject to all legally required and customary withholdings. The Company makes no representations regarding the tax implications of the compensation and benefits to be paid to the Executive under this Agreement, including, without limitation, under Section 409A ("**Section 409A**") of the Internal Revenue Code of 1986, as amended (the "**Code**") and applicable administrative guidance and regulations. It is intended that this Agreement will comply with Section 409A and all regulations and guidance issued thereunder to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent.

(a) Each payment made under this Agreement shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-l(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Treasury Regulation §§ 1.409A-1 through A-6.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-1(h) and (iii) Executive is employed by a public company or a controlled group affiliate thereof: no payments hereunder that are "deferred compensation" subject to Section 409A shall be made to Executive prior to the date that is six (6) months after the date of separation from service or, if earlier, the date of death; following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.



(c) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement or the provision of any in-kind benefit in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive

incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

18. **Binding Effect; Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and the Executive consents to the assignment by the Company of its rights and obligations under this Agreement to any subsidiary the Company or to any purchaser or assignee of all or substantially all of the stock or assets of the Company or its business. The Executive may not assign any of his rights or delegate any of his duties hereunder without the prior written consent of the Board (which may be granted or withheld in the Board's sole discretion).

19. **Entire Agreement**. This Agreement and the agreements referred to herein, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof and thereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby cancelled and terminated.

20. **Amendment**. This Agreement may not be amended, supplemented or modified in whole or in part except by an instrument in writing signed by the party against whom enforcement of any such amendment, supplement or modification is sought.

21. **Survival**. Subject to the last sentence of Section 2, the provisions of Sections 8(h) and 9 through 36 hereof shall survive the termination or expiration of this Agreement and the Term.



22. **Notices**. Any notice, request or other document required or permitted to be given under this Agreement shall be in writing and shall be deemed given (a) upon actual receipt by the party to which such notice shall be directed if delivered by hand or sent by facsimile or electronic mail; (b) three (3) days after the date of deposit in the mail, postage prepaid, if mailed by U.S. certified or registered mail; or (c) on the next business day, if sent by prepaid overnight courier service, in each case, addressed as follows:

(a) If to the Executive, to:

Jim Thompson
c/o PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
E-mail: [Omitted]

(b) If to the Company to:

PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
Attn: General Counsel
E-mail: [Omitted]

Either party may change the address to which notice shall be sent by giving notice of such change of address to the other party in the manner provided above.

23. **Waivers**. The failure or delay of any party to enforce any provision of this Agreement shall in no way affect the right of such party to enforce the same or any other provision of this Agreement. The waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver by such party of any succeeding breach of such provision or a waiver by such party of a breach of any other provision. The granting of any consent or approval by any party in any one instance shall not be construed to waive or limit the need for such consent or approval in any other or subsequent instance.

24. **Governing Law; Waiver of Jury Trial**. The parties hereby agree that all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement, together with any dispute arising hereunder, shall be governed by the internal Laws of the State of Texas without giving effect to any choice of Law or conflict of

Law provision or rule, notwithstanding that public policy in Texas or any other forum jurisdiction might indicate that the Laws of that or any other jurisdiction should otherwise apply based on contacts with such state or otherwise. Each party hereby irrevocably agree that any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the courts of the State of Texas or any federal court of the District of Texas and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereto hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the address provided in accordance with Section 23 above, such service to become effective ten (10) days after such mailing.

25. **Severability**. Without limiting the generality of Section 15(e), if any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain enforceable and the invalid, illegal or unenforceable provisions shall be modified so as to be valid and enforceable and shall be enforced.



26. **Section Headings**. Section headings are included in this Agreement for convenience of reference only, and shall in no way affect the meaning or interpretation of this Agreement.

27. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

28. **Number of Days**. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; **provided**, **however**, if the final day of any time period falls on a Saturday, Sunday or holiday on which federal banks in the United States are or may elect to be closed, then the final day shall be deemed to be the next day that is not Saturday, Sunday or such holiday.

29. **Enforcement of Rights; Decisions by the Board**. Any and all decisions to be made by the Company in connection with enforcing the terms and provisions of this Agreement (or exercising any right or remedy hereunder) shall be made by a vote of the majority of the Board (excluding, for any such purpose, the vote of the Executive, if he is then serving on the Board).

30. **Cooperation with Regard to Litigation**. The Executive agrees to cooperate with the Company, during the Term and thereafter, by being available as reasonably requested to testify on behalf of the Company or its subsidiaries in any action, suit or proceeding relating to the Company or its business, whether civil, criminal, administrative or investigative. In addition, except to the extent that the Executive has or intends to assert in good faith an interest or position adverse to or inconsistent with the interest or position of the Company or its subsidiaries, the Executive agrees to cooperate with the Company and its subsidiaries, during the Term and thereafter to assist the Company and its subsidiaries in any such action, suit or proceeding by providing information and meeting and consulting with the Board or its representatives or counsel, or representatives or counsel to the Company or its subsidiaries, in each case, as reasonably requested by the Company. The Company agrees to pay (or reimburse, if already paid by the Executive) all reasonable expenses actually incurred in connection with the Executive's cooperation and assistance including, without limitation, reasonable fees and disbursements of counsel, if any, chosen by the Executive.

31. **Joint Drafting**. In recognition of the fact that the parties hereto had an equal opportunity to draft and to negotiate the language of this Agreement, the parties acknowledge and agree that there is no single drafter of this Agreement and therefore, the general rule that ambiguities are to be construed against the drafter is, and shall be, inapplicable.

32. **Cumulative Remedies**. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available, whether by contract, at law, in equity or otherwise.

33. **Indulgences; Waiver of Breach**. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

34. **Assignment; Binding Nature of Agreement**. This Agreement is personal to Executive, and Executive may not assign, delegate or transfer his rights or obligations hereunder. This Agreement is assignable by the Company in its sole and absolute discretion; provided that the assignee is not less creditworthy in any material respect than the Company. This Agreement, including the restrictive covenants in Sections 12 and 13 above, shall be binding upon and inure to the benefit of the Company and its successors and assigns, and shall be binding upon Executive, his heirs and legal representatives.

35. **No Statements or Promises to Executive**. Executive acknowledges that no statements or promises have been made to Executive and Executive has not relied upon any statements or promises as an inducement to accept employment or sign this Agreement, except those statements contained herein.

36. **Withholding; Taxes**. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, non-U.S. or other taxes as are required or permitted to be withheld pursuant to any applicable law or regulation. Executive shall be responsible for all taxes (including self-employment taxes, if applicable) in connection with his status as a member of the Company for U.S. federal income tax purposes.

[*Remainder of this page intentionally left blank; signature page follows*.]



IN WITNESS WHEREOF, the parties have executed this Employment Agreement as of the day and year first written above.

PHCC OP, LP

By: _____
Name:
Title:

EXECUTIVE

By: _____
Name:
Title:

*Jim Thompson Employment Agreement – Signature Page*

**Exhibit 10.10**

# FORM OF EMPLOYMENT AGREEMENT

This Employment Agreement (as the same may be amended from time to time, this "**Agreement**"), is entered into as of [●] (the "**Effective Date**"), between PHCC OP, LP, a Delaware limited partnership (the "**Company**"), and Cliff Weiner, an individual (the "**Executive**").

## R E C I T A L S

WHEREAS, the Company desires to employ the Executive, and the Executive has agreed to be employed by the Company, on the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Employment**. The Company hereby agrees to employ the Executive to serve in the capacities described in this Agreement, and the Executive agrees to accept such employment and perform such services, upon the terms and subject to the conditions set forth herein.

2. **Term**. Unless the Executive's employment shall sooner terminate pursuant to Section 9 hereof, the Company shall employ the Executive for a term commencing on the Effective Date and ending on the two (2) year anniversary of the Effective Date (the "**Initial Period**"). Effective upon the expiration of the Initial Period and of each Additional Period (as defined below), the Executive's employment hereunder shall be deemed to be automatically extended, upon the same terms and conditions, for an additional period of one (1) year (each, an "**Additional Period**"), in each such case, commencing upon the expiration of the Initial Period or the then current Additional Period, as the case may be, unless, at least sixty (60) days prior to the expiration of the Initial Period or such Additional Period, either party shall give written notice to the other (a "**Non-Extension Notice**") of its intention not to extend the Term (as defined below). The period during which the Executive is employed pursuant to this Agreement shall be referred to as the "**Term**."

3. **Duties and Responsibilities**.

(a) **Title**. The Executive shall hold the title of Head of Fixed Income of Preston Hollow Community Capital, Inc. ("**Corporation**") [and shall hold the positions and titles of other affiliates of other affiliates of the Corporation and the Company as are listed in Appendix A]**,** and shall have such authority and responsibility as is customary for such position consistent with the constituent documents of the Company (as the same may be amended from time to time, the "**Constituent Documents**") or as otherwise determined by the Chief Executive Officer or the board of directors of the Corporation (the "**Board**").

(b) **Standard of Care**. The Executive shall at all times perform his duties and responsibilities honestly, diligently, in good faith and to the best of his ability and shall observe and comply with all of the policies and procedures established by the Company and the Board from time to time (including any employee handbook, compliance manual or code of ethics of the Company or any of its subsidiaries) that are applicable to the Company's senior executives, and with all applicable laws, rules and regulations imposed by any governmental or regulatory authorities.

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(c) **Devotion of Time**. The Executive will exercise his best efforts in furtherance of, and devote all of his business time (except for vacation as permitted hereunder and reasonable absence for illness) to, the operation of the business and affairs the Company and its subsidiaries; **provided**, **however**, **that** the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs and (ii) managing his and his family's personal investments, so long as such activities do not, individually or in the aggregate, (x) violate any covenants applicable to the Executive hereunder or under any other document, agreement or instrument to which the Executive is a party or (y) interfere with the performance of the Executive's duties and responsibilities as an employee of the Company and its subsidiaries in accordance with the terms hereof.

(d) **Situs of Work**. The Executive shall be principally based at the Company's executive headquarters in Dallas, Texas or such other locations agreed to by the Executive and the Company, subject to such reasonable travel as may be necessary to fulfill the Executive's obligations under this Agreement.

4. **Compensation**. As compensation for his services hereunder and in consideration of the covenants set forth in this Agreement:

(a) **Base Salary**. The Company shall pay to the Executive an annual base salary (the "**Base Salary**") equal to four hundred thousand dollars ($400,000) per annum. The Executive's Base Salary shall be subject to annual review by the compensation committee of the Board and may be increased, but not decreased (except as described in Section 8(f)(ii) below), without the consent of the Executive, from time to time by the Board (or a committee of the Board) in its sole discretion. The Base Salary shall be payable in accordance with the Company's customary payroll practices and procedures and shall be prorated for any partial period during the Term.

(b) **Annual Performance Bonus**. In addition to Base Salary, the Executive shall be eligible to receive annual bonus compensation each fiscal year thereafter during the Term, in an amount to be determined for each such fiscal year by the compensation committee of the Board in its sole discretion based upon such committee's assessment of the Company and the Executive during the relevant fiscal year (the bonus for each respective year, the "**Annual Bonus**"). Except as provided in Section 9(c) below, the Executive shall not be entitled to receive an Annual Bonus unless he is employed by the Company through the date such Annual Bonus is paid. Any Annual Bonus shall be paid to the Executive in cash on or before March 15 of the year following the fiscal year to which such Annual Bonus relates.

5. **Executive Benefits**. The Executive shall be entitled to participate in all employee benefit plans and programs (including, without limitation, retirement, medical, disability and life insurance plans and programs) that are established and made generally available by the Company or one of its subsidiaries from time to time to its senior executives, subject, however, to the applicable eligibility requirements and other provisions of such plans and programs (including, without limitation, requirements as to position, tenure, location, salary, age and health). The Company shall have the unlimited right in its sole and absolute discretion to change its benefit plans and programs from time to time so long as any such change does not discriminate against the Executive and does not diminish the economic value of the Executive's compensation and benefits, and this Agreement shall be deemed automatically amended upon the effectiveness of such change.



6. **Vacation**. The Executive shall be entitled to three weeks of vacation per year in accordance with the Company's policies for senior executives of the Company, as modified from time to time, provided that such vacation shall not adversely interfere with the Executive's operation of the business and affairs of the Company and its subsidiaries.

7. **Reimbursement of Expenses**. The Company shall pay or reimburse the Executive for all reasonable, documented and necessary travel, business entertainment and other out-of-pocket expenses actually incurred by him in connection with the performance of his duties hereunder in accordance with the Company's travel policies and expense reimbursement guidelines or such other policies, procedures and limits of the Company as in effect from time to time (as determined by the Board) including, without limitation, the submission of reasonable written verification or receipts documenting such expenses.

8. **Termination**. The Executive's employment hereunder may be terminated as follows:

(a) **For Cause**. The Company shall have the right, in addition to any other rights and remedies that the Company may have (at law, in equity or otherwise), to immediately terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder by delivery of written notice to the Executive approved by the Board after the occurrence of any event constituting "Cause." For purposes of this Agreement, "**Cause**" shall mean: (i) the Executive has engaged in one or more acts constituting a felony; (ii) the Executive refuses to comply with direct instructions of the Chief Executive Officer, the Board or his or its designee that are consistent with Executive's duties to the Company and with relevant requirements of applicable law, as set forth in a written notice to Executive, such compliance to be within fifteen (15) days following such notice or such other time as may be reasonably required for such compliance as determined by the Company in good faith; (iii) the Executive engages in intentionally dishonest or willful misconduct; (iv) the Executive perpetrates a fraud, theft, or embezzlement or misappropriation against or affecting the Company, any subsidiary, any of their respective affiliates or any customer, client, agent, creditor, equity holder or employee of the Company, such subsidiary, or any of their respective affiliates; (v) the Executive breaches any material representation or warranty that such person made, or material obligation

that such person owes, to the Company or any of its subsidiaries or affiliates under this Agreement, the Operating Partnership Agreement of the Company, or any other written agreement, which breach, to the extent curable, is not cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary; (vi) the Executive is indicted on charges of, commits, or is convicted of, or enters a plea of guilty or *nolo contendere* to, a felony or a crime involving fraud or dishonesty; (vii) the Executive habitually abuses alcohol or controlled substances without a prescription or (viii) the Executive violates any Law or other regulations applicable to the Company, any subsidiary or any of their respective affiliates or breaches any of his duties to the Company, any subsidiary or any of their respective affiliates that in each case, for purposes of this clause (ix), materially and adversely affects the Company, any subsidiary or any of their respective affiliates, unless such action or conduct is curable and is cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary.



(b) **Death**. The Term shall automatically terminate without notice to either party in the event of the Executive's death.

(c) **Disability**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder in the event of Disability. For purposes of this Agreement, "**Disability**" shall mean that the Executive shall be unable to perform because of illness or incapacity, physical or mental, the essential functions, duties and responsibilities to be performed by the Executive for a consecutive period of one hundred and eighty (180) days during any consecutive twelve (12) month period.

(d) **Without Cause**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries at any time without Cause on ten (10) days prior written notice to the Executive.

(e) **Mutual Agreement**. The parties may terminate the Executive's employment with the Company or any of its subsidiaries hereunder upon their mutual written consent.

(f) **Good Reason**. The Executive may terminate the Term and his employment with the Company and any of its subsidiaries hereunder for good reason ("**Good Reason**") following the occurrence of one or more of the events constituting "Good Reason." For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of one or more of the following events (unless such event is curable, in which case such event will not constitute Good Reason unless such event remains uncured fifteen (15) days following receipt by the Company of written demand from the Executive to cure such event): (i) the Company's or any subsidiary's failure to pay any salary or any other material compensatory amounts due to the Executive when such payments or amounts are due; (ii) a reduction in the Executive's base salary (other than due to the Company's or its subsidiaries' financial performance or cash needs, and provided such reduction is applied in like proportion to all similarly situated executives of the Corporation or the Company); (iii) a relocation of the Executive's primary place of work to a site more than fifty (50) miles from the Executive's primary place of work as of the Effective Date resulting in a commute for the Executive of not less than an additional 50 miles; or (iv) a material diminution in the Executive's duties, responsibilities, authority or reporting lines. Notwithstanding anything to the contrary contained in this Agreement, in order for the Executive to terminate his employment hereunder for Good Reason, the Executive must provide written notice to the Company within the thirty (30) day period commencing upon the occurrence of the Good Reason.

(g) **Without Good Reason**. The Executive shall have the right to terminate the Term and the Executive's employment with the Company and any of its subsidiaries at any time without Good Reason on sixty (60) days prior written notice to the Company. The Company, in its sole discretion, may reduce or eliminate such notice period, provided that such termination shall continue to be deemed to be by Executive without Good Reason.

(h) **Effect of Termination**. Effective as of any date of termination of the Executive's employment with the Company or any of its subsidiaries, without any further action required by any party, the Executive shall be removed from, and shall no longer hold, all positions then held by him with the Company or any of its subsidiaries. The Executive agrees that he shall execute any documentation, resignations or similar documents reasonably necessary to give effect to the provisions of this Section 8(h).

(i) **Cessation of Professional Activity**. Upon delivery of a written notice of termination by any party, the Company may relieve the Executive of his duties and responsibilities and require the Executive to immediately cease all professional activity on behalf the Company and its subsidiaries. In addition, in the event that the Board determines that there is a reasonable basis for it to investigate whether circumstances exist that would, if true, permit the Board to terminate the Executive's employment for Cause, the Board may relieve the Executive of his duties and responsibilities during the pendency of such investigation. During any period that the Executive is relieved of duties and responsibilities pursuant to this Section 8(i), the Executive shall continue to be entitled to all salary, benefits, reimbursements, vesting of Incentive Common Units and any other consideration provided for under this Agreement.

9. **Payments Upon Termination**.

(a) **Payments Upon Termination (other than with Good Reason, without Cause or upon the Company's delivery of a Non-Extension Notice)**. If the Executive's employment with the Company or its subsidiaries shall be terminated during the Term as a result of any of the events set forth in Sections 8(a), (b), (c), (e) or (g) hereof or as a result of the Executive having terminated his employment with the Company for any reason, including the Executive's delivery of a Non-Extension Notice (other than pursuant to Section 8(f) hereof), then the Company shall:

(i) pay to the Executive (or his heirs and/or personal representatives) his Base Salary at the time of termination earned through the date of termination (to the extent not already paid); and

(ii) reimburse the Executive for any expenses for which the Executive is entitled to reimbursement under Section 7 hereof;

**provided that** upon the satisfaction of its obligations in this Section 9(a), the Company shall have no further obligation to the Executive under this Agreement.

(b) **Payments Upon Termination (upon the Company's delivery of a Non-Extension Notice)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated upon the Company's delivery of a Non-Extension Notice, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;



(ii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twelve (12) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9 (d) and such release becomes nonrevocable; **provided that**, upon the satisfaction of its obligations in this Section 9(b), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Section 9(b)(ii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(c) **Payments Upon Termination (with Good Reason or without Cause)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated during the Term pursuant to Section 8(d) hereof (for a reason other than those covered by Sections 8(a), (b), (c), (e) or (g) hereof), or if the Executive shall terminate his employment pursuant to Section 8(f) hereof, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) pay to the Executive a pro rata Annual Bonus for the year in which such termination occurs in an amount equal to (a) 100% of the Annual Bonus earned by the Executive in the year prior to such termination multiplied by (b) a fraction, the numerator of which is the number of days in such year from January 1 through the date of termination and the denominator of which is 365, payable as and when such Annual Bonus would have been payable had the Executive's employment not terminated; and

(iii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twenty-four (24) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9(d) and such release becomes nonrevocable; **provided that**, upon the satisfaction of its obligations in this Section 9(c), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Sections 9(c)(ii) and 9(c)(iii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(d) **Release**. The Executive agrees, as a condition to receipt of any termination payments and benefits provided for in Sections 9(b)(ii), 9(c)(ii) and 9(c)(iii), that the Executive will execute a general release agreement, in form and substance reasonably satisfactory to the Company, releasing any and all claims the Executive may have arising out of the Executive's employment (other than enforcement of this Section 9) and deliver such executed release to the Company not later than fifty-two (52) days after the date of termination. The Company shall provide the form of release to the Executive within five (5) business days after termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason. The Executive shall not be entitled to receive any amount under Sections 9(b)(ii), 9(c)(ii) or 9(c)(iii) unless the release has become fully enforceable and nonrevocable prior to the sixtieth (60th) day after the date of termination.



10. **Confidential Information**.

(a) The Executive agrees to at all times during the Term and thereafter: (i) hold in the strictest confidence and neither use in any manner detrimental to the Company or any of its subsidiaries or affiliates, nor disclose, publish or divulge, directly or indirectly, to any individual or entity, any Confidential Information; and (ii) inform all other persons or entities to whom the Executive discloses Confidential Information of the proprietary interest and nature of such Confidential Information and of the recipient's obligations to keep such information confidential. The Executive agrees that the foregoing restrictions shall apply whether or not such information is marked "Confidential".

(b) For purposes of this Agreement, the term "**Confidential Information**" shall include, with respect to the Company and each of its subsidiaries, all data, information, reports, interpretations, forecasts and records, financial or otherwise, including all property owned by the Company and each of its subsidiaries or in which any of them have any rights and information related to the business or financial affairs of the Company and each of its subsidiaries, including but not limited to customer lists and accounts, prospective customer lists, customer data, systems, policies, manuals, advertising, marketing plans, marketing strategies, research, trade secrets, business plans, financial data, strategies, methods of conducting business, cost and pricing information, formulas, processes, procedures, standards, manuals, techniques, designs, technology, confidential reports, computer software, financial and performance results and other data, telephone and other contact lists, contract forms, catalogues, books, records, files and all other information, knowledge, or data of any kind or nature relating to the products, services, customers, financing sources, employees, investors or business of the Company and each of its subsidiaries. The term "Confidential Information" does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by any person having an obligation of confidentiality to the Company or any of its subsidiaries; (ii) was or becomes available to the Executive on a non-confidential basis from a source other than the Company and its subsidiaries and affiliates and other than in connection with the Executive's employment by the Company; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any of its subsidiaries with respect to such information; (iii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the Company, and the Company has had a reasonable opportunity to oppose such disclosure; or (iv) is disclosed with the written approval of the Board.

(c) If the Executive becomes legally required (whether by deposition, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar processes) to disclose any Confidential Information, he will provide the Company with prompt notice thereof so that the Company may seek a protective order or other appropriate remedy and the Executive will, at the Company's expense, cooperate with and assist the Company in securing such protective order or other remedy. In the event that such protective order is not obtained, or the Company waives compliance with the provisions of this Section 10 to permit a particular disclosure, the Executive shall furnish only that portion of the Confidential Information that he is advised by counsel in writing is legally required to be disclosed and shall exercise his reasonable best efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. The Executive further agrees that all memoranda, disks, files, notes, records or other documents that contain Confidential Information, whether in electronic form or hard copy, and whether created by the Executive or others, that come into his possession, shall be and shall remain the exclusive property of the Company to be used by the Executive only in the performance of his obligations hereunder.

(d) The Executive is hereby notified that 18 U.S.C. § 1833(b) states as follows: "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, notwithstanding any other provision of this Agreement to the contrary, the Executive has the right to (1) disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of the law or (2) disclose trade secrets in a document filed in a lawsuit or other proceeding so long as that filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

11. **Return of Documents and Property**. Upon termination of the Executive's employment with the Company or any of its subsidiaries (for any reason) or at any other time upon the request of the Company, the Executive (or his heirs or personal representatives): (a) shall deliver, or cause to be delivered, to the Company, and shall not retain, all memoranda, disks, files, notes, records, documents or other materials obtained in connection with the Executive's employment with the Company or any of its subsidiaries or which otherwise relate to the business of the Company and its subsidiaries (whether or not containing Confidential Information) and shall not retain any copies thereof in any format or storage medium (including computer disk or memory); (b) purge from any computer system in his possession, other than those owned by and returned to the Company or any of its subsidiaries, all computer files that contain or are based upon any Confidential Information and confirm such purging in writing to the Company; and (c) return any other property that rightfully belongs to the Company or any of its subsidiaries, including, without limitation, computers and cellular phones, in accordance with the Company's policy in effect from time to time.



12. **Non-Compete**. The Executive agrees during the period commencing on the date hereof and ending twenty-four (24) months following the conclusion of the Term (the "**Non-Compete Period**"), not to, directly or indirectly (including through any affiliate), (a) compete with Company or its subsidiaries or the business of the Company or its subsidiaries as conducted on the last date of the Term (the "**Business**") or (b) (other than as a director, employee, agent, consultant, shareholder, member or manager of the Business or the Company) as an individual proprietor, partner, shareholder, member, equity holder, officer, director, manager, employee, consultant, independent contractor, joint venturer, investor or lender or otherwise, participate in any business or enterprise engaged anywhere in the United States in the provision of any services that are the same as, substantially similar to or competitive with the services that the Company or any of its subsidiaries was selling or providing or, to the Executive's knowledge, actively planning to sell or provide, during the twelve months preceding the end of the Term (each, a "**Competing Business**"), provided that this clause (b) shall not be construed to prevent the Executive from being employed by a division or a subsidiary of a Competing Business if the Executive's services to such division or subsidiary do not, in fact, compete with the Company or any of its subsidiaries. The foregoing restrictions shall not be construed to prohibit the ownership by the Executive of (i) not more than three percent (3%) of any class of equity securities of any corporation having a class of equity securities registered pursuant to the Securities Exchange Act of 1934 (a "**public company**") that are publicly owned and regularly traded on any national securities exchange or over-the-counter market or (ii) debt instruments of any privately owned entity, governmental entity, governmental entity, quasi-governmental entity, bond issuer or public company, if, with respect to both clauses (i) and (ii), such ownership represents a personal investment and the Executive does not either directly or indirectly in any way manage or exercise control of any such privately owned entity, governmental entity, quasi-governmental entity, bond issuer or public company, guarantee any of its financial obligations or otherwise take part in its business other than exercising the Executive's rights as a debt or equity holder, or seek to do any of the foregoing.

13. **Non-Solicitation of Vendors, Etc.** During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term (the "**Vendor Non-Solicitation Period**"), the Executive agrees not to, except as otherwise necessary or advisable in the performance of his duties as an officer, director, manager, employee or consultant of the Company, its subsidiaries, or any of their respective affiliates, directly or indirectly, on his behalf or on behalf of any other person or entity (a) induce or solicit any supplier, subcontractor, licensee, distributor, funding source or business relation, or any person or entity that was a supplier, subcontractor, licensee, distributor, funding source or business relation at any time during the twelve (12) months preceding the end of the Term, to cease doing business with the Business or the Company or any of its subsidiaries, or in any way negatively interfere with the relationship between any such supplier, subcontractor, licensee, distributor, funding source or business relation of the Business, the Company or any of their respective affiliates; (b) disclose the identity of any supplier, subcontractor, licensee, distributor, funding source or business relation of the Business or the Company or any of its subsidiaries to any person or entity if such relationship is confidential; or (c) attempt to do any of the foregoing, or knowingly assist, entice, induce or encourage any other person or entity to do or attempt to do any activity which, were it done by the Executive, would violate any provision of this Section 14.

14. **Non-Solicitation or Hire of Employees**. During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term, the Executive agrees that he shall not, directly or indirectly, solicit or in any manner encourage to leave the employ of the Company for an engagement in any capacity by another person or entity, or hire any employee or consultant of the Company or any person who was an employee or consultant of the Company at any time during the last six (6) months of the Term. Notwithstanding the foregoing, the Executive shall not by reason of this Agreement be precluded from engaging in general solicitations of employment not targeted at employees and consultants of the Company.



15. **Enforceability of Restrictive Covenants**.

(a) In the event that the Executive's employment with the Company or any of its subsidiaries (i) is terminated by the Company or such subsidiary for any reason other than for Cause (including the Company's delivery of a Non-Extension Notice) or (ii) the Executive terminates his employment with the Company for Good Reason, then the terms of both the Non-Compete Period and the Vendor Non-Solicitation Period shall be reduced such that they end on the twelve (12) month anniversary of the conclusion of the Term.

(b) The Executive hereby acknowledges and agrees that (i) the restrictions on his activities contained in Sections 10, 11, 12, 13 and 14 hereof are necessary for the reasonable protection of the Company, its subsidiaries and their goodwill and are a material inducement to the Company entering into this Agreement and (ii) a breach or threatened breach of any such provisions will cause irreparable harm to the Company and its subsidiaries for which there is no adequate remedy at law.

(c) The Executive agrees that in the event of any breach or threatened breach of any provision contained in Sections 10, 11, 12, 13 and 14 hereof, the Company shall be entitled, in addition to any other rights or remedies available to the Company at law, in equity or otherwise, to a temporary, preliminary or permanent injunction or injunctions and temporary restraining order or orders to prevent breaches of such provisions and to specifically enforce the terms and provisions thereof.

(d) The parties acknowledge that the time, scope and other provisions contained in Sections 10, 11, 12, 13 and 14 hereof are reasonable and necessary to protect the goodwill and business of the Company and its subsidiaries and affiliates. Notwithstanding the foregoing, if any covenant contained in Sections 10, 11, 12, 13 and 14 hereof is held to be unenforceable by reason of the time or scope, such covenant shall be interpreted to extend to the maximum time or scope for which it may be enforced as determined by a court making such determination, and such covenant shall only apply in its reduced form to the operation of such covenant in the particular jurisdiction in which such adjudication is made.

(e) In the event of any breach by the Executive of any of the restrictive covenants contained in Sections 10, 11, 12, 13 and 14 hereof, the running of the period of the applicable restriction shall be automatically tolled and suspended for the duration of such breach, and shall automatically recommence when such breach is remedied in order that the Company or any of its subsidiaries or affiliates shall receive the full benefit of the Executive's compliance with each of the covenants contained in Sections 10, 11, 12, 13 and 14 hereof.

(f) The provisions of Sections 11, 12, 13, 14 and 15 hereof are in addition to and supplement any other agreements, covenants or obligations to which the Executive is or may be bound from time to time, including agreements, covenants and obligations set forth in the Operating Partnership Agreement of the Company, the Equity Incentive Plan and any grant agreement.



16. **Representations and Warranties; Indemnity**. The Executive represents and warrants to the Company that the execution and delivery of this Agreement by him and the performance by him of his obligations hereunder shall not constitute (with or without notice or lapse of time or both) a breach or violation of a provision of any understanding, contract or commitment, written or oral, express or implied, to which the Executive is a party or to which the Executive is or may be bound, including, without limitation, any understanding, contract or commitment with any present or former employer, in each case, that imposes restrictions that would, or would reasonably be expected to, interfere with the Executive's ability to perform his obligations under this Agreement. The Executive hereby agrees to indemnify and hold the Company harmless from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by the Company in connection with any such breach or violation by the Executive of any such understanding, contract or commitment.

17. **Taxes**. Payment of all compensation and benefits to the Executive by the Company shall be subject to all legally required and customary withholdings. The Company makes no representations regarding the tax implications of the compensation and benefits to be paid to the Executive under this Agreement, including, without limitation, under Section 409A ("**Section 409A**") of the Internal Revenue Code of 1986, as amended (the "**Code**") and applicable administrative guidance and regulations. It is intended that this Agreement will comply with Section 409A and all regulations and guidance issued thereunder to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent.

(a) Each payment made under this Agreement shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-l(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Treasury Regulation §§ 1.409A-1 through A-6.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-1(h) and (iii) Executive is employed by a public company or a controlled group affiliate thereof: no payments hereunder that are "deferred compensation" subject to Section 409A shall be made to Executive prior to the date that is six (6) months after the date of separation from service or, if earlier, the date of death; following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.



(c) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement or the provision of any in-kind benefit in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

18. **Binding Effect; Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and the Executive consents to the assignment by the Company of its rights and obligations under this Agreement to any subsidiary the Company or to any purchaser or assignee of all or substantially all of the stock or assets of the Company or its business. The Executive may not assign any of his rights or delegate any of his duties hereunder without the prior written consent of the Board (which may be granted or withheld in the Board's sole discretion).

19. **Entire Agreement**. This Agreement and the agreements referred to herein, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof and thereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby cancelled and terminated.

20. **Amendment**. This Agreement may not be amended, supplemented or modified in whole or in part except by an instrument in writing signed by the party against whom enforcement of any such amendment, supplement or modification is sought.

21. **Survival**. Subject to the last sentence of Section 2, the provisions of Sections 8(h) and 9 through 36 hereof shall survive the termination or expiration of this Agreement and the Term.

22. **Notices**. Any notice, request or other document required or permitted to be given under this Agreement shall be in writing and shall be deemed given (a) upon actual receipt by the party to which such notice shall be directed if delivered by hand or sent by facsimile or electronic mail; (b) three (3) days after the date of deposit in the mail, postage prepaid, if mailed by U.S. certified or registered mail; or (c) on the next business day, if sent by prepaid overnight courier service, in each case, addressed as follows:



(a) If to the Executive, to:

Cliff Weiner
c/o PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
E-mail: [Omitted]

(b) If to the Company to:

PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
Attn: General Counsel
E-mail: [Omitted]

Either party may change the address to which notice shall be sent by giving notice of such change of address to the other party in the manner provided above.

23. **Waivers**. The failure or delay of any party to enforce any provision of this Agreement shall in no way affect the right of such party to enforce the same or any other provision of this Agreement. The waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver by such party of any succeeding breach of such provision or a waiver by such party of a breach of any other provision. The granting of any consent or approval by any party in any one instance shall not be construed to waive or limit the need for such consent or approval in any other or subsequent instance.

24. **Governing Law; Waiver of Jury Trial**. The parties hereby agree that all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement, together with any dispute arising hereunder, shall be governed by the internal Laws of the State of Texas without giving effect to any choice of Law or conflict of Law provision or rule, notwithstanding that public policy in Texas or any other forum jurisdiction might indicate that the Laws of that or any other jurisdiction should otherwise apply based on contacts with such state or otherwise. Each party hereby irrevocably agree that

any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the courts of the State of Texas or any federal court of the District of Texas and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereto hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the address provided in accordance with Section 23 above, such service to become effective ten (10) days after such mailing.

25. **Severability**. Without limiting the generality of Section 15(e), if any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain enforceable and the invalid, illegal or unenforceable provisions shall be modified so as to be valid and enforceable and shall be enforced.



26. **Section Headings**. Section headings are included in this Agreement for convenience of reference only, and shall in no way affect the meaning or interpretation of this Agreement.

27. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

28. **Number of Days**. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; **provided**, **however**, if the final day of any time period falls on a Saturday, Sunday or holiday on which federal banks in the United States are or may elect to be closed, then the final day shall be deemed to be the next day that is not Saturday, Sunday or such holiday.

29. **Enforcement of Rights; Decisions by the Board**. Any and all decisions to be made by the Company in connection with enforcing the terms and provisions of this Agreement (or exercising any right or remedy hereunder) shall be made by a vote of the majority of the Board (excluding, for any such purpose, the vote of the Executive, if he is then serving on the Board).

30. **Cooperation with Regard to Litigation**. The Executive agrees to cooperate with the Company, during the Term and thereafter, by being available as reasonably requested to testify on behalf of the Company or its subsidiaries in any action, suit or proceeding relating to the Company or its business, whether civil, criminal, administrative or investigative. In addition, except to the extent that the Executive has or intends to assert in good faith an interest or position adverse to or inconsistent with the interest or position of the Company or its subsidiaries, the Executive agrees to cooperate with the Company and its subsidiaries, during the Term and thereafter to assist the Company and its subsidiaries in any such action, suit or proceeding by providing information and meeting and consulting with the Board or its representatives or counsel, or representatives or counsel to the Company or its subsidiaries, in each case, as reasonably requested by the Company. The Company agrees to pay (or reimburse, if already paid by the Executive) all reasonable expenses actually incurred in connection with the Executive's cooperation and assistance including, without limitation, reasonable fees and disbursements of counsel, if any, chosen by the Executive.

31. **Joint Drafting**. In recognition of the fact that the parties hereto had an equal opportunity to draft and to negotiate the language of this Agreement, the parties acknowledge and agree that there is no single drafter of this Agreement and therefore, the general rule that ambiguities are to be construed against the drafter is, and shall be, inapplicable.

32. **Cumulative Remedies**. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available, whether by contract, at law, in equity or otherwise.

33. **Indulgences; Waiver of Breach**. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

34. **Assignment; Binding Nature of Agreement**. This Agreement is personal to Executive, and Executive may not assign, delegate or transfer his rights or obligations hereunder. This Agreement is assignable by the Company in its sole and absolute discretion; provided that the assignee is not less creditworthy in any material respect than the Company. This Agreement, including the restrictive covenants in Sections 12 and 13 above, shall be binding upon and inure to the benefit of the Company and its successors and assigns, and shall be binding upon Executive, his heirs and legal representatives.

35. **No Statements or Promises to Executive**. Executive acknowledges that no statements or promises have been made to Executive and Executive has not relied upon any statements or promises as an inducement to accept employment or sign this Agreement, except those statements contained herein.

36. **Withholding; Taxes**. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, non-U.S. or other taxes as are required or permitted to be withheld pursuant to any applicable law or regulation. Executive shall be responsible for all taxes (including self-employment taxes, if applicable) in connection with his status as a member of the Company for U.S. federal income tax purposes.

[*Remainder of this page intentionally left blank; signature page follows*.]



IN WITNESS WHEREOF, the parties have executed this Employment Agreement as of the day and year first written above.

PHCC OP, LP

By: _____
Name:
Title:

EXECUTIVE

By: _____
Name:
Title:

*Cliff Weiner Employment Agreement – Signature Page*

**Exhibit 10.11**

# FORM OF EMPLOYMENT AGREEMENT

This Employment Agreement (as the same may be amended from time to time, this "**Agreement**"), is entered into as of [●] (the "**Effective Date**"), between PHCC OP, LP, a Delaware limited partnership (the "**Company**"), and Paige Deskin, an individual (the "**Executive**").

## R E C I T A L S

WHEREAS, the Company desires to employ the Executive, and the Executive has agreed to be employed by the Company, on the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Employment**. The Company hereby agrees to employ the Executive to serve in the capacities described in this Agreement, and the Executive agrees to accept such employment and perform such services, upon the terms and subject to the conditions set forth herein.

2. **Term**. Unless the Executive's employment shall sooner terminate pursuant to Section 9 hereof, the Company shall employ the Executive for a term commencing on the Effective Date and ending on the two (2) year anniversary of the Effective Date (the "**Initial Period**"). Effective upon the expiration of the Initial Period and of each Additional Period (as defined below), the Executive's employment hereunder shall be deemed to be automatically extended, upon the same terms and conditions, for an additional period of one (1) year (each, an "**Additional Period**"), in each such case, commencing upon the expiration of the Initial Period or the then current Additional Period, as the case may be, unless, at least sixty (60) days prior to the expiration of the Initial Period or such Additional Period, either party shall give written notice to the other (a "**Non-Extension Notice**") of its intention not to extend the Term (as defined below). The period during which the Executive is employed pursuant to this Agreement shall be referred to as the "**Term**."

3. **Duties and Responsibilities**.

(a) **Title**. The Executive shall hold the title of Chief Financial Officer of Preston Hollow Community Capital, Inc. ("**Corporation**") [and shall hold the positions and titles of other affiliates of other affiliates of the Corporation and the Company as are listed in Appendix A]**,** and shall have such authority and responsibility as is customary for such position consistent with the constituent documents of the Company (as the same may be amended from time to time, the "**Constituent Documents**") or as otherwise determined by the Chief Executive Officer or the board of directors of the Corporation (the "**Board**").

(b) **Standard of Care**. The Executive shall at all times perform her duties and responsibilities honestly, diligently, in good faith and to the best of her ability and shall observe and comply with all of the policies and procedures established by the Company and the Board from time to time (including any employee handbook, compliance manual or code of ethics of the Company or any of its subsidiaries) that are applicable to the Company's senior executives, and with all applicable laws, rules and regulations imposed by any governmental or regulatory authorities.

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(c) **Devotion of Time**. The Executive will exercise her best efforts in furtherance of, and devote all of her business time (except for vacation as permitted hereunder and reasonable absence for illness) to, the operation of the business and affairs the Company and its subsidiaries; **provided**, **however**, **that** the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs and (ii) managing her and her family's personal investments, so long as such activities do not, individually or in the aggregate, (x) violate any covenants applicable to the Executive hereunder or under any other document, agreement or instrument to which the Executive is a party or (y) interfere with the performance of the Executive's duties and responsibilities as an employee of the Company and its subsidiaries in accordance with the terms hereof.

(d) **Situs of Work**. The Executive shall be principally based at the Company's executive headquarters in Dallas, Texas or such other locations agreed to by the Executive and the Company, subject to such reasonable travel as may be necessary to fulfill the Executive's obligations under this Agreement.

4. **Compensation**. As compensation for her services hereunder and in consideration of the covenants set forth in this Agreement:

(a) **Base Salary**. The Company shall pay to the Executive an annual base salary (the "**Base Salary**") equal to four hundred thousand dollars ($400,000) per annum. The Executive's Base Salary shall be subject to annual review by the compensation committee of the Board and may be increased, but not decreased (except as described in Section 8(f)(ii) below), without the consent of the Executive, from time to time by the Board (or a committee of the Board) in its sole discretion. The Base Salary shall be payable in accordance with the Company's customary payroll practices and procedures and shall be prorated for any partial period during the Term.

(b) **Annual Performance Bonus**. In addition to Base Salary, the Executive shall be eligible to receive annual bonus compensation each fiscal year thereafter during the Term, in an amount to be determined for each such fiscal year by the compensation committee of the Board in its sole discretion based upon such committee's assessment of the Company and the Executive during the relevant fiscal year (the bonus for each respective year, the "**Annual Bonus**"). Except as provided in Section 9(c) below, the Executive shall not be entitled to receive an Annual Bonus unless she is employed by the Company through the date such Annual Bonus is paid. Any Annual Bonus shall be paid to the Executive in cash on or before March 15 of the year following the fiscal year to which such Annual Bonus relates.

5. **Executive Benefits**. The Executive shall be entitled to participate in all employee benefit plans and programs (including, without limitation, retirement, medical, disability and life insurance plans and programs) that are established and made generally available by the Company or one of its subsidiaries from time to time to its senior executives, subject, however, to the applicable eligibility requirements and other provisions of such plans and programs (including, without limitation, requirements as to position, tenure, location, salary, age and health). The Company shall have the unlimited right in its sole and absolute discretion to change its benefit plans and programs from time to time so long as any such change does not discriminate against the Executive and does not diminish the economic value of the Executive's compensation and benefits, and this Agreement shall be deemed automatically amended upon the effectiveness of such change.



6. **Vacation**. The Executive shall be entitled to three weeks of vacation per year in accordance with the Company's policies for senior executives of the Company, as modified from time to time, provided that such vacation shall not adversely interfere with the Executive's operation of the business and affairs of the Company and its subsidiaries.

7. **Reimbursement of Expenses**. The Company shall pay or reimburse the Executive for all reasonable, documented and necessary travel, business entertainment and other out-of-pocket expenses actually incurred by him in connection with the performance of her duties hereunder in accordance with the Company's travel policies and expense reimbursement guidelines or such other policies, procedures and limits of the Company as in effect from time to time (as determined by the Board) including, without limitation, the submission of reasonable written verification or receipts documenting such expenses.

8. **Termination**. The Executive's employment hereunder may be terminated as follows:

(a) **For Cause**. The Company shall have the right, in addition to any other rights and remedies that the Company may have (at law, in equity or otherwise), to immediately terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder by delivery of written notice to the Executive approved by the Board after the occurrence of any event constituting "Cause." For purposes of this Agreement, "**Cause**" shall mean: (i) the Executive has engaged in one or more acts constituting a felony; (ii) the Executive refuses to comply with direct instructions of the Chief Executive Officer, the Board or her or its designee that are consistent with Executive's duties to the Company and with relevant requirements of applicable law, as set forth in a written notice to Executive, such compliance to be within fifteen (15) days following such notice or such other time as may be reasonably required for such compliance as determined by the Company in good faith; (iii) the Executive engages in intentionally dishonest or willful misconduct; (iv) the Executive perpetrates a fraud, theft, or embezzlement or misappropriation against or affecting the Company, any subsidiary, any of their respective affiliates or any customer, client, agent, creditor, equity holder or employee of the Company, such subsidiary, or any of their respective affiliates; (v) the Executive breaches any material representation or warranty that such person made, or material obligation

that such person owes, to the Company or any of its subsidiaries or affiliates under this Agreement, the Operating Partnership Agreement of the Company, or any other written agreement, which breach, to the extent curable, is not cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary; (vi) the Executive is indicted on charges of, commits, or is convicted of, or enters a plea of guilty or *nolo contendere* to, a felony or a crime involving fraud or dishonesty; (vii) the Executive habitually abuses alcohol or controlled substances without a prescription or (viii) the Executive violates any Law or other regulations applicable to the Company, any subsidiary or any of their respective affiliates or breaches any of her duties to the Company, any subsidiary or any of their respective affiliates that in each case, for purposes of this clause (ix), materially and adversely affects the Company, any subsidiary or any of their respective affiliates, unless such action or conduct is curable and is cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary.



(b) **Death**. The Term shall automatically terminate without notice to either party in the event of the Executive's death.

(c) **Disability**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder in the event of Disability. For purposes of this Agreement, "**Disability**" shall mean that the Executive shall be unable to perform because of illness or incapacity, physical or mental, the essential functions, duties and responsibilities to be performed by the Executive for a consecutive period of one hundred and eighty (180) days during any consecutive twelve (12) month period.

(d) **Without Cause**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries at any time without Cause on ten (10) days prior written notice to the Executive.

(e) **Mutual Agreement**. The parties may terminate the Executive's employment with the Company or any of its subsidiaries hereunder upon their mutual written consent.

(f) **Good Reason**. The Executive may terminate the Term and her employment with the Company and any of its subsidiaries hereunder for good reason ("**Good Reason**") following the occurrence of one or more of the events constituting "Good Reason." For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of one or more of the following events (unless such event is curable, in which case such event will not constitute Good Reason unless such event remains uncured fifteen (15) days following receipt by the Company of written demand from the Executive to cure such event): (i) the Company's or any subsidiary's failure to pay any salary or any other material compensatory amounts due to the Executive when such payments or amounts are due; (ii) a reduction in the Executive's base salary (other than due to the Company's or its subsidiaries' financial performance or cash needs, and provided such reduction is applied in like proportion to all similarly situated executives of the Corporation or the Company); (iii) a relocation of the Executive's primary place of work to a site more than fifty (50) miles from the Executive's primary place of work as of the Effective Date resulting in a commute for the Executive of not less than an additional 50 miles; or (iv) a material diminution in the Executive's duties, responsibilities, authority or reporting lines. Notwithstanding anything to the contrary contained in this Agreement, in order for the Executive to terminate her employment hereunder for Good Reason, the Executive must provide written notice to the Company within the thirty (30) day period commencing upon the occurrence of the Good Reason.

(g) **Without Good Reason**. The Executive shall have the right to terminate the Term and the Executive's employment with the Company and any of its subsidiaries at any time without Good Reason on sixty (60) days prior written notice to the Company. The Company, in its sole discretion, may reduce or eliminate such notice period, provided that such termination shall continue to be deemed to be by Executive without Good Reason.



(h) **Effect of Termination**. Effective as of any date of termination of the Executive's employment with the Company or any of its subsidiaries, without any further action required by any party, the Executive shall be removed from, and shall no longer hold, all positions then held by him with the Company or any of its subsidiaries. The Executive agrees that she shall execute any documentation, resignations or similar documents reasonably necessary to give effect to the provisions of this Section 8(h).

(i) **Cessation of Professional Activity**. Upon delivery of a written notice of termination by any party, the Company may relieve the Executive of her duties and responsibilities and require the Executive to immediately cease all professional activity on behalf the Company and its subsidiaries. In addition, in the event that the Board determines that there is a reasonable basis for it to investigate whether circumstances exist that would, if true, permit the Board to terminate the Executive's employment for Cause, the Board may relieve the Executive of her duties and responsibilities during the pendency of such investigation. During any period that the Executive is relieved of duties and responsibilities pursuant to this Section 8(i), the Executive shall continue to be entitled to all salary, benefits, reimbursements, vesting of Incentive Common Units and any other consideration provided for under this Agreement.

9. **Payments Upon Termination**.

(a) **Payments Upon Termination (other than with Good Reason, without Cause or upon the Company's delivery of a Non-Extension Notice)**. If the Executive's employment with the Company or its subsidiaries shall be terminated during the Term as a result of any of the events set forth in Sections 8(a), (b), (c), (e) or (g) hereof or as a result of the Executive having terminated her employment with the Company for any reason, including the Executive's delivery of a Non-Extension Notice (other than pursuant to Section 8(f) hereof), then the Company shall:

(i) pay to the Executive (or her heirs and/or personal representatives) her Base Salary at the time of termination earned through the date of termination (to the extent not already paid); and

(ii) reimburse the Executive for any expenses for which the Executive is entitled to reimbursement under Section 7 hereof;

**provided that** upon the satisfaction of its obligations in this Section 9(a), the Company shall have no further obligation to the Executive under this Agreement.

(b) **Payments Upon Termination (upon the Company's delivery of a Non-Extension Notice)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated upon the Company's delivery of a Non-Extension Notice, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twelve (12) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9 (d) and such release becomes nonrevocable;



**provided that**, upon the satisfaction of its obligations in this Section 9(b), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Section 9(b)(ii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10 and 11 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(c) **Payments Upon Termination (with Good Reason or without Cause)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated during the Term pursuant to Section 8(d) hereof (for a reason other than those covered by Sections 8(a), (b), (c), (e) or (g) hereof), or if the Executive shall terminate her employment pursuant to Section 8(f) hereof, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) pay to the Executive a pro rata Annual Bonus for the year in which such termination occurs in an amount equal to (a) 100% of the Annual Bonus earned by the Executive in the year prior to such termination multiplied by (b) a fraction, the numerator

of which is the number of days in such year from January 1 through the date of termination and the denominator of which is 365, payable as and when such Annual Bonus would have been payable had the Executive's employment not terminated; and

(iii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twenty-four (24) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9(d) and such release becomes nonrevocable;

**provided that**, upon the satisfaction of its obligations in this Section 9(c), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Sections 9(c)(ii) and 9(c)(iii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10 and 11 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.



(d) **Release**. The Executive agrees, as a condition to receipt of any termination payments and benefits provided for in Sections 9(b)(ii), 9(c)(ii) and 9(c)(iii), that the Executive will execute a general release agreement, in form and substance reasonably satisfactory to the Company, releasing any and all claims the Executive may have arising out of the Executive's employment (other than enforcement of this Section 9) and deliver such executed release to the Company not later than fifty-two (52) days after the date of termination. The Company shall provide the form of release to the Executive within five (5) business days after termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason. The Executive shall not be entitled to receive any amount under Sections 9(b)(ii), 9(c)(ii) or 9(c)(iii) unless the release has become fully enforceable and nonrevocable prior to the sixtieth (60th) day after the date of termination.

10. **Confidential Information**.

(a) The Executive agrees to at all times during the Term and thereafter: (i) hold in the strictest confidence and neither use in any manner detrimental to the Company or any of its subsidiaries or affiliates, nor disclose, publish or divulge, directly or indirectly, to any individual or entity, any Confidential Information; and (ii) inform all other persons or entities to whom the Executive discloses Confidential Information of the proprietary interest and nature of such Confidential Information and of the recipient's obligations to keep such information confidential. The Executive agrees that the foregoing restrictions shall apply whether or not such information is marked "Confidential".

(b) For purposes of this Agreement, the term "**Confidential Information**" shall include, with respect to the Company and each of its subsidiaries, all data, information, reports, interpretations, forecasts and records, financial or otherwise, including all property owned by the Company and each of its subsidiaries or in which any of them have any rights and information related to the business or financial affairs of the Company and each of its subsidiaries, including but not limited to customer lists and accounts, prospective customer lists, customer data, systems, policies, manuals, advertising, marketing plans, marketing strategies, research, trade secrets, business plans, financial data, strategies, methods of conducting business, cost and pricing information, formulas, processes, procedures, standards, manuals, techniques, designs, technology, confidential reports, computer software, financial and performance results and other data, telephone and other contact lists, contract forms, catalogues, books, records, files and all other information, knowledge, or data of any kind or nature relating to the products, services, customers, financing sources, employees, investors or business of the Company and each of its subsidiaries. The term "Confidential Information" does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by any person having an obligation of confidentiality to the Company or any of its subsidiaries; (ii) was or becomes available to the Executive on a non-confidential basis from a source other than the Company and its subsidiaries and affiliates and other than in connection with the Executive's employment by the Company; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any of its subsidiaries with respect to such information; (iii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the Company, and the Company has had a reasonable opportunity to oppose such disclosure; or (iv) is disclosed with the written approval of the Board.

(c) If the Executive becomes legally required (whether by deposition, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar processes) to disclose any Confidential Information, she will provide the Company with prompt notice thereof so that the Company may seek a protective order or other appropriate remedy and the Executive will, at the Company's expense, cooperate with and assist the Company in securing such protective order or other remedy. In the event that such protective order is not obtained, or the Company waives compliance with the provisions of this Section 10 to permit a particular disclosure, the Executive shall furnish only that portion of the Confidential Information that she is advised by counsel in writing is legally required to be disclosed and shall exercise her reasonable best efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. The Executive further agrees that all memoranda, disks, files, notes, records or other documents that contain Confidential Information, whether in electronic form or hard copy, and whether created by the Executive or others, that come into her possession, shall be and shall remain the exclusive property of the Company to be used by the Executive only in the performance of her obligations hereunder.

(d) The Executive is hereby notified that 18 U.S.C. § 1833(b) states as follows: "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, notwithstanding any other provision of this Agreement to the contrary, the Executive has the right to (1) disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of the law or (2) disclose trade secrets in a document filed in a lawsuit or other proceeding so long as that filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

11. **Return of Documents and Property**. Upon termination of the Executive's employment with the Company or any of its subsidiaries (for any reason) or at any other time upon the request of the Company, the Executive (or her heirs or personal representatives): (a) shall deliver, or cause to be delivered, to the Company, and shall not retain, all memoranda, disks, files, notes, records, documents or other materials obtained in connection with the Executive's employment with the Company or any of its subsidiaries or which otherwise relate to the business of the Company and its subsidiaries (whether or not containing Confidential Information) and shall not retain any copies thereof in any format or storage medium (including computer disk or memory); (b) purge from any computer system in her possession, other than those owned by and returned to the Company or any of its subsidiaries, all computer files that contain or are based upon any Confidential Information and confirm such purging in writing to the Company; and (c) return any other property that rightfully belongs to the Company or any of its subsidiaries, including, without limitation, computers and cellular phones, in accordance with the Company's policy in effect from time to time.



12. **Enforceability of Restrictive Covenants**.

(a) In the event that the Executive's employment with the Company or any of its subsidiaries (i) is terminated by the Company or such subsidiary for any reason other than for Cause (including the Company's delivery of a Non-Extension Notice) or (ii) the Executive terminates her employment with the Company for Good Reason, then the terms of both the Non-Compete Period and the Vendor Non-Solicitation Period shall be reduced such that they end on the twelve (12) month anniversary of the conclusion of the Term.

(b) The Executive hereby acknowledges and agrees that (i) the restrictions on her activities contained in Sections 10 and 11 hereof are necessary for the reasonable protection of the Company, its subsidiaries and their goodwill and are a material inducement to the Company entering into this Agreement and (ii) a breach or threatened breach of any such provisions will cause irreparable harm to the Company and its subsidiaries for which there is no adequate remedy at law.

(c) The Executive agrees that in the event of any breach or threatened breach of any provision contained in Sections 10 and 11 hereof, the Company shall be entitled, in addition to any other rights or remedies available to the Company at law, in equity or otherwise, to a temporary, preliminary or permanent injunction or injunctions and temporary restraining order or orders to prevent breaches of such provisions and to specifically enforce the terms and provisions thereof.

(d) The parties acknowledge that the time, scope and other provisions contained in Sections 10 and 11 hereof are reasonable and necessary to protect the goodwill and business of the Company and its subsidiaries and affiliates. Notwithstanding the foregoing, if any covenant contained in Sections 10 and 11 hereof is held to be unenforceable by reason of the time or scope, such covenant shall be interpreted to extend to the maximum time or scope for which it may be enforced as determined by a court making such determination, and such covenant shall only apply in its reduced form to the operation of such covenant in the particular jurisdiction in which such adjudication is made.

(e) In the event of any breach by the Executive of any of the restrictive covenants contained in Sections 10 and 11 hereof, the running of the period of the applicable restriction shall be automatically tolled and suspended for the duration of such breach, and shall automatically recommence when such breach is remedied in order that the Company or any of its subsidiaries or affiliates shall receive the full benefit of the Executive's compliance with each of the covenants contained in Sections 10 and 11 hereof.

(f) The provisions of Sections 10, 11 and 12 hereof are in addition to and supplement any other agreements, covenants or obligations to which the Executive is or may be bound from time to time, including agreements, covenants and obligations set forth in the Operating Partnership Agreement of the Company, the Equity Incentive Plan and any grant agreement.



13. **Representations and Warranties; Indemnity**. The Executive represents and warrants to the Company that the execution and delivery of this Agreement by him and the performance by him of her obligations hereunder shall not constitute (with or without notice or lapse of time or both) a breach or violation of a provision of any understanding, contract or commitment, written or oral, express or implied, to which the Executive is a party or to which the Executive is or may be bound, including, without limitation, any understanding, contract or commitment with any present or former employer, in each case, that imposes restrictions that would, or would reasonably be expected to, interfere with the Executive's ability to perform her obligations under this Agreement. The Executive hereby agrees to indemnify and hold the Company harmless from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by the Company in connection with any such breach or violation by the Executive of any such understanding, contract or commitment.

14. **Taxes**. Payment of all compensation and benefits to the Executive by the Company shall be subject to all legally required and customary withholdings. The Company makes no representations regarding the tax implications of the compensation and benefits to be paid to the Executive under this Agreement, including, without limitation, under Section 409A ("**Section 409A**") of the Internal Revenue Code of 1986, as amended (the "**Code**") and applicable administrative guidance and regulations. It is intended that this Agreement will comply with Section 409A and all regulations and guidance issued thereunder to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent.

(a) Each payment made under this Agreement shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-l(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Treasury Regulation §§ 1.409A-1 through A-6.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-1(h) and (iii) Executive is employed by a public company or a controlled group affiliate thereof: no payments hereunder that are "deferred compensation" subject to Section 409A shall be made to Executive prior to the date that is six (6) months after the date of separation from service or, if earlier, the date of death; following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.

(c) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar

year in which Executive's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement or the provision of any in-kind benefit in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.



15. **Binding Effect; Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and the Executive consents to the assignment by the Company of its rights and obligations under this Agreement to any subsidiary the Company or to any purchaser or assignee of all or substantially all of the stock or assets of the Company or its business. The Executive may not assign any of her rights or delegate any of her duties hereunder without the prior written consent of the Board (which may be granted or withheld in the Board's sole discretion).

16. **Entire Agreement**. This Agreement and the agreements referred to herein, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof and thereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby cancelled and terminated.

17. **Amendment**. This Agreement may not be amended, supplemented or modified in whole or in part except by an instrument in writing signed by the party against whom enforcement of any such amendment, supplement or modification is sought.

18. **Survival**. Subject to the last sentence of Section 2, the provisions of Sections 8(h) and 9 through 33 hereof shall survive the termination or expiration of this Agreement and the Term.

19. **Notices**. Any notice, request or other document required or permitted to be given under this Agreement shall be in writing and shall be deemed given (a) upon actual receipt by the party to which such notice shall be directed if delivered by hand or sent by facsimile or electronic mail; (b) three (3) days after the date of deposit in the mail, postage prepaid, if mailed by U.S. certified or registered mail; or (c) on the next business day, if sent by prepaid overnight courier service, in each case, addressed as follows:

(a) If to the Executive, to:

Paige Deskin
c/o PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
E-mail: [Omitted]



(b) If to the Company to:

PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
Attn: General Counsel
E-mail: [Omitted]

Either party may change the address to which notice shall be sent by giving notice of such change of address to the other party in the manner provided above.

20. **Waivers**. The failure or delay of any party to enforce any provision of this Agreement shall in no way affect the right of such party to enforce the same or any other provision of this Agreement. The waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver by such party of any succeeding breach of such provision or a waiver by such party of a breach of any other provision. The granting of any consent or approval by any party in any one instance shall not be construed to waive or limit the need for such consent or approval in any other or subsequent instance.

21. **Governing Law; Waiver of Jury Trial**. The parties hereby agree that all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement, together with any dispute arising hereunder, shall be governed by the internal Laws of the State of Texas without giving effect to any choice of Law or conflict of Law provision or rule, notwithstanding that public policy in Texas or any other forum jurisdiction might indicate that the Laws of that or any other jurisdiction should otherwise apply based on contacts with such state or otherwise. Each party hereby irrevocably agree that any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the courts of the State of Texas or any federal court of the District of Texas and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereto hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the address provided in accordance with Section 19 above, such service to become effective ten (10) days after such mailing.

22. **Severability**. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain enforceable and the invalid, illegal or unenforceable provisions shall be modified so as to be valid and enforceable and shall be enforced.

23. **Section Headings**. Section headings are included in this Agreement for convenience of reference only, and shall in no way affect the meaning or interpretation of this Agreement.



24. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

25. **Number of Days**. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; **provided**, **however**, if the final day of any time period falls on a Saturday, Sunday or holiday on which federal banks in the United States are or may elect to be closed, then the final day shall be deemed to be the next day that is not Saturday, Sunday or such holiday.

26. **Enforcement of Rights; Decisions by the Board**. Any and all decisions to be made by the Company in connection with enforcing the terms and provisions of this Agreement (or exercising any right or remedy hereunder) shall be made by a vote of the majority of the Board (excluding, for any such purpose, the vote of the Executive, if she is then serving on the Board).

27. **Cooperation with Regard to Litigation**. The Executive agrees to cooperate with the Company, during the Term and thereafter, by being available as reasonably requested to testify on behalf of the Company or its subsidiaries in any action, suit or proceeding relating to the Company or its business, whether civil, criminal, administrative or investigative. In addition, except to the extent that the Executive has or intends to assert in good faith an interest or position adverse to or inconsistent with the interest or position of the Company or its subsidiaries, the Executive agrees to cooperate with the Company and its subsidiaries, during the Term and thereafter to assist the Company and its subsidiaries in any such action, suit or proceeding by providing information and meeting and consulting with the Board or its representatives or counsel, or representatives or counsel to the Company or its subsidiaries, in each case, as reasonably requested by the Company. The Company agrees to pay (or reimburse, if already paid by the Executive) all reasonable expenses actually incurred in connection with the Executive's cooperation and assistance including, without limitation, reasonable fees and disbursements of counsel, if any, chosen by the Executive.

28. **Joint Drafting**. In recognition of the fact that the parties hereto had an equal opportunity to draft and to negotiate the language of this Agreement, the parties acknowledge and agree that there is no single drafter of this Agreement and therefore, the general rule that ambiguities are to be construed against the drafter is, and shall be, inapplicable.

29. **Cumulative Remedies**. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available, whether by contract, at law, in equity or otherwise.

30. **Indulgences; Waiver of Breach**. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.



31. **Assignment; Binding Nature of Agreement**. This Agreement is personal to Executive, and Executive may not assign, delegate or transfer her rights or obligations hereunder. This Agreement is assignable by the Company in its sole and absolute discretion; provided that the assignee is not less creditworthy in any material respect than the Company. This Agreement shall be binding upon and inure to the benefit of the Company and its successors and assigns, and shall be binding upon Executive, her heirs and legal representatives.

32. **No Statements or Promises to Executive**. Executive acknowledges that no statements or promises have been made to Executive and Executive has not relied upon any statements or promises as an inducement to accept employment or sign this Agreement, except those statements contained herein.

33. **Withholding; Taxes**. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, non-U.S. or other taxes as are required or permitted to be withheld pursuant to any applicable law or regulation. Executive shall be responsible for all taxes (including self-employment taxes, if applicable) in connection with her status as a member of the Company for U.S. federal income tax purposes.

[*Remainder of this page intentionally left blank; signature page follows*.]



IN WITNESS WHEREOF, the parties have executed this Employment Agreement as of the day and year first written above.

PHCC OP, LP

By: _____
Name:
Title:

EXECUTIVE

By: _____
Name:
Title:

**Exhibit 10.12**

# FORM OF EMPLOYMENT AGREEMENT

This Employment Agreement (as the same may be amended from time to time, this "**Agreement**"), is entered into as of [●] (the "**Effective Date**"), between PHCC OP, LP, a Delaware limited partnership (the "**Company**"), and Ramiro Albarran, an individual (the "**Executive**").

## R E C I T A L S

WHEREAS, the Company desires to employ the Executive, and the Executive has agreed to be employed by the Company, on the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Employment**. The Company hereby agrees to employ the Executive to serve in the capacities described in this Agreement, and the Executive agrees to accept such employment and perform such services, upon the terms and subject to the conditions set forth herein.

2. **Term**. Unless the Executive's employment shall sooner terminate pursuant to Section 9 hereof, the Company shall employ the Executive for a term commencing on the Effective Date and ending on the two (2) year anniversary of the Effective Date (the "**Initial Period**"). Effective upon the expiration of the Initial Period and of each Additional Period (as defined below), the Executive's employment hereunder shall be deemed to be automatically extended, upon the same terms and conditions, for an additional period of one (1) year (each, an "**Additional Period**"), in each such case, commencing upon the expiration of the Initial Period or the then current Additional Period, as the case may be, unless, at least sixty (60) days prior to the expiration of the Initial Period or such Additional Period, either party shall give written notice to the other (a "**Non-Extension Notice**") of its intention not to extend the Term (as defined below). The period during which the Executive is employed pursuant to this Agreement shall be referred to as the "**Term**."

3. **Duties and Responsibilities**.

(a) **Title**. The Executive shall hold the title of Co-Head of Originations of Preston Hollow Community Capital, Inc. ("**Corporation**") [and shall hold the positions and titles of other affiliates of other affiliates of the Corporation and the Company as are listed in Appendix A]**,** and shall have such authority and responsibility as is customary for such position consistent with the constituent documents of the Company (as the same may be amended from time to time, the "**Constituent Documents**") or as otherwise determined by the Chief Executive Officer or the board of directors of the Corporation (the "**Board**").

(b) **Standard of Care**. The Executive shall at all times perform his duties and responsibilities honestly, diligently, in good faith and to the best of his ability and shall observe and comply with all of the policies and procedures established by the Company and the Board from time to time (including any employee handbook, compliance manual or code of ethics of the Company or any of its subsidiaries) that are applicable to the Company's senior executives, and with all applicable laws, rules and regulations imposed by any governmental or regulatory authorities.

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(c) **Devotion of Time**. The Executive will exercise his best efforts in furtherance of, and devote all of his business time (except for vacation as permitted hereunder and reasonable absence for illness) to, the operation of the business and affairs the Company and its subsidiaries; **provided**, **however**, **that** the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs and (ii) managing his and his family's personal investments, so long as such activities do not, individually or in the aggregate, (x) violate any covenants applicable to the Executive hereunder or under any other document, agreement or instrument to which the Executive is a party or (y) interfere with the performance of the Executive's duties and responsibilities as an employee of the Company and its subsidiaries in accordance with the terms hereof.

(d) **Situs of Work**. The Executive shall be principally based at the Company's executive headquarters in Dallas, Texas or such other locations agreed to by the Executive and the Company, subject to such reasonable travel as may be necessary to fulfill the Executive's obligations under this Agreement.

4. **Compensation**. As compensation for his services hereunder and in consideration of the covenants set forth in this Agreement:

(a) **Base Salary**. The Company shall pay to the Executive an annual base salary (the "**Base Salary**") equal to four hundred thousand dollars ($400,000) per annum. The Executive's Base Salary shall be subject to annual review by the compensation committee of the Board and may be increased, but not decreased (except as described in Section 8(f)(ii) below), without the consent of the Executive, from time to time by the Board (or a committee of the Board) in its sole discretion. The Base Salary shall be payable in accordance with the Company's customary payroll practices and procedures and shall be prorated for any partial period during the Term.

(b) **Annual Performance Bonus**. In addition to Base Salary, the Executive shall be eligible to receive annual bonus compensation each fiscal year thereafter during the Term, in an amount to be determined for each such fiscal year by the compensation committee of the Board in its sole discretion based upon such committee's assessment of the Company and the Executive during the relevant fiscal year (the bonus for each respective year, the "**Annual Bonus**"). Except as provided in Section 9(c) below, the Executive shall not be entitled to receive an Annual Bonus unless he is employed by the Company through the date such Annual Bonus is paid. Any Annual Bonus shall be paid to the Executive in cash on or before March 15 of the year following the fiscal year to which such Annual Bonus relates.

5. **Executive Benefits**. The Executive shall be entitled to participate in all employee benefit plans and programs (including, without limitation, retirement, medical, disability and life insurance plans and programs) that are established and made generally available by the Company or one of its subsidiaries from time to time to its senior executives, subject, however, to the applicable eligibility requirements and other provisions of such plans and programs (including, without limitation, requirements as to position, tenure, location, salary, age and health). The Company shall have the unlimited right in its sole and absolute discretion to change its benefit plans and programs from time to time so long as any such change does not discriminate against the Executive and does not diminish the economic value of the Executive's compensation and benefits, and this Agreement shall be deemed automatically amended upon the effectiveness of such change.



6. **Vacation**. The Executive shall be entitled to three weeks of vacation per year in accordance with the Company's policies for senior executives of the Company, as modified from time to time, provided that such vacation shall not adversely interfere with the Executive's operation of the business and affairs of the Company and its subsidiaries.

7. **Reimbursement of Expenses**. The Company shall pay or reimburse the Executive for all reasonable, documented and necessary travel, business entertainment and other out-of-pocket expenses actually incurred by him in connection with the performance of his duties hereunder in accordance with the Company's travel policies and expense reimbursement guidelines or such other policies, procedures and limits of the Company as in effect from time to time (as determined by the Board) including, without limitation, the submission of reasonable written verification or receipts documenting such expenses.

8. **Termination**. The Executive's employment hereunder may be terminated as follows:

(a) **For Cause**. The Company shall have the right, in addition to any other rights and remedies that the Company may have (at law, in equity or otherwise), to immediately terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder by delivery of written notice to the Executive approved by the Board after the occurrence of any event constituting "Cause." For purposes of this Agreement, "**Cause**" shall mean: (i) the Executive has engaged in one or more acts constituting a felony; (ii) the Executive refuses to comply with direct instructions of the Chief Executive Officer, the Board or his or its designee that are consistent with Executive's duties to the Company and with relevant requirements of applicable law, as set forth in a written notice to Executive, such compliance to be within fifteen (15) days following such notice or such other time as may be reasonably required for such compliance as determined by the Company in good faith; (iii) the Executive engages in intentionally dishonest or willful misconduct; (iv) the Executive perpetrates a fraud, theft, or embezzlement or misappropriation against or affecting the Company, any subsidiary, any of their respective affiliates or any customer, client, agent, creditor, equity holder or employee of the Company, such subsidiary, or any of their respective affiliates; (v) the Executive breaches any material representation or warranty that such person made, or material obligation

that such person owes, to the Company or any of its subsidiaries or affiliates under this Agreement, the Operating Partnership Agreement of the Company, or any other written agreement, which breach, to the extent curable, is not cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary; (vi) the Executive is indicted on charges of, commits, or is convicted of, or enters a plea of guilty or *nolo contendere* to, a felony or a crime involving fraud or dishonesty; (vii) the Executive habitually abuses alcohol or controlled substances without a prescription or (viii) the Executive violates any Law or other regulations applicable to the Company, any subsidiary or any of their respective affiliates or breaches any of his duties to the Company, any subsidiary or any of their respective affiliates that in each case, for purposes of this clause (ix), materially and adversely affects the Company, any subsidiary or any of their respective affiliates, unless such action or conduct is curable and is cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary.



(b) **Death**. The Term shall automatically terminate without notice to either party in the event of the Executive's death.

(c) **Disability**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder in the event of Disability. For purposes of this Agreement, "**Disability**" shall mean that the Executive shall be unable to perform because of illness or incapacity, physical or mental, the essential functions, duties and responsibilities to be performed by the Executive for a consecutive period of one hundred and eighty (180) days during any consecutive twelve (12) month period.

(d) **Without Cause**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries at any time without Cause on ten (10) days prior written notice to the Executive.

(e) **Mutual Agreement**. The parties may terminate the Executive's employment with the Company or any of its subsidiaries hereunder upon their mutual written consent.

(f) **Good Reason**. The Executive may terminate the Term and his employment with the Company and any of its subsidiaries hereunder for good reason ("**Good Reason**") following the occurrence of one or more of the events constituting "Good Reason." For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of one or more of the following events (unless such event is curable, in which case such event will not constitute Good Reason unless such event remains uncured fifteen (15) days following receipt by the Company of written demand from the Executive to cure such event): (i) the Company's or any subsidiary's failure to pay any salary or any other material compensatory amounts due to the Executive when such payments or amounts are due; (ii) a reduction in the Executive's base salary (other than due to the Company's or its subsidiaries' financial performance or cash needs, and provided such reduction is applied in like proportion to all similarly situated executives of the Corporation or the Company); (iii) a relocation of the Executive's primary place of work to a site more than fifty (50) miles from the Executive's primary place of work as of the Effective Date resulting in a commute for the Executive of not less than an additional 50 miles; or (iv) a material diminution in the Executive's duties, responsibilities, authority or reporting lines. Notwithstanding anything to the contrary contained in this Agreement, in order for the Executive to terminate his employment hereunder for Good Reason, the Executive must provide written notice to the Company within the thirty (30) day period commencing upon the occurrence of the Good Reason.

(g) **Without Good Reason**. The Executive shall have the right to terminate the Term and the Executive's employment with the Company and any of its subsidiaries at any time without Good Reason on sixty (60) days prior written notice to the Company. The Company, in its sole discretion, may reduce or eliminate such notice period, provided that such termination shall continue to be deemed to be by Executive without Good Reason.



(h) **Effect of Termination**. Effective as of any date of termination of the Executive's employment with the Company or any of its subsidiaries, without any further action required by any party, the Executive shall be removed from, and shall no longer hold, all positions then held by him with the Company or any of its subsidiaries. The Executive agrees that he shall execute any documentation, resignations or similar documents reasonably necessary to give effect to the provisions of this Section 8(h).

(i) **Cessation of Professional Activity**. Upon delivery of a written notice of termination by any party, the Company may relieve the Executive of his duties and responsibilities and require the Executive to immediately cease all professional activity on behalf the Company and its subsidiaries. In addition, in the event that the Board determines that there is a reasonable basis for it to investigate whether circumstances exist that would, if true, permit the Board to terminate the Executive's employment for Cause, the Board may relieve the Executive of his duties and responsibilities during the pendency of such investigation. During any period that the Executive is relieved of duties and responsibilities pursuant to this Section 8(i), the Executive shall continue to be entitled to all salary, benefits, reimbursements, vesting of Incentive Common Units and any other consideration provided for under this Agreement.

9. **Payments Upon Termination**.

(a) **Payments Upon Termination (other than with Good Reason, without Cause or upon the Company's delivery of a Non-Extension Notice)**. If the Executive's employment with the Company or its subsidiaries shall be terminated during the Term as a result of any of the events set forth in Sections 8(a), (b), (c), (e) or (g) hereof or as a result of the Executive having terminated his employment with the Company for any reason, including the Executive's delivery of a Non-Extension Notice (other than pursuant to Section 8(f) hereof), then the Company shall:

(i) pay to the Executive (or his heirs and/or personal representatives) his Base Salary at the time of termination earned through the date of termination (to the extent not already paid); and

(ii) reimburse the Executive for any expenses for which the Executive is entitled to reimbursement under Section 7 hereof;

**provided that** upon the satisfaction of its obligations in this Section 9(a), the Company shall have no further obligation to the Executive under this Agreement.

(b) **Payments Upon Termination (upon the Company's delivery of a Non-Extension Notice)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated upon the Company's delivery of a Non-Extension Notice, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twelve (12) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9 (d) and such release becomes nonrevocable;



**provided that**, upon the satisfaction of its obligations in this Section 9(b), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Section 9(b)(ii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(c) **Payments Upon Termination (with Good Reason or without Cause)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated during the Term pursuant to Section 8(d) hereof (for a reason other than those covered by Sections 8(a), (b), (c), (e) or (g) hereof), or if the Executive shall terminate his employment pursuant to Section 8(f) hereof, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) pay to the Executive a pro rata Annual Bonus for the year in which such termination occurs in an amount equal to (a) 100% of the Annual Bonus earned by the Executive in the year prior to such termination multiplied by (b) a fraction, the numerator

of which is the number of days in such year from January 1 through the date of termination and the denominator of which is 365, payable as and when such Annual Bonus would have been payable had the Executive's employment not terminated; and

(iii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twenty-four (24) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9(d) and such release becomes nonrevocable;

**provided that**, upon the satisfaction of its obligations in this Section 9(c), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Sections 9(c)(ii) and 9(c)(iii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.



(d) **Release**. The Executive agrees, as a condition to receipt of any termination payments and benefits provided for in Sections 9(b)(ii), 9(c)(ii) and 9(c)(iii), that the Executive will execute a general release agreement, in form and substance reasonably satisfactory to the Company, releasing any and all claims the Executive may have arising out of the Executive's employment (other than enforcement of this Section 9) and deliver such executed release to the Company not later than fifty-two (52) days after the date of termination. The Company shall provide the form of release to the Executive within five (5) business days after termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason. The Executive shall not be entitled to receive any amount under Sections 9(b)(ii), 9(c)(ii) or 9(c)(iii) unless the release has become fully enforceable and nonrevocable prior to the sixtieth (60th) day after the date of termination.

10. **Confidential Information**.

(a) The Executive agrees to at all times during the Term and thereafter: (i) hold in the strictest confidence and neither use in any manner detrimental to the Company or any of its subsidiaries or affiliates, nor disclose, publish or divulge, directly or indirectly, to any individual or entity, any Confidential Information; and (ii) inform all other persons or entities to whom the Executive discloses Confidential Information of the proprietary interest and nature of such Confidential Information and of the recipient's obligations to keep such information confidential. The Executive agrees that the foregoing restrictions shall apply whether or not such information is marked "Confidential".

(b) For purposes of this Agreement, the term "**Confidential Information**" shall include, with respect to the Company and each of its subsidiaries, all data, information, reports, interpretations, forecasts and records, financial or otherwise, including all property owned by the Company and each of its subsidiaries or in which any of them have any rights and information related to the business or financial affairs of the Company and each of its subsidiaries, including but not limited to customer lists and accounts, prospective customer lists, customer data, systems, policies, manuals, advertising, marketing plans, marketing strategies, research, trade secrets, business plans, financial data, strategies, methods of conducting business, cost and pricing information, formulas, processes, procedures, standards, manuals, techniques, designs, technology, confidential reports, computer software, financial and performance results and other data, telephone and other contact lists, contract forms, catalogues, books, records, files and all other information, knowledge, or data of any kind or nature relating to the products, services, customers, financing sources, employees, investors or business of the Company and each of its subsidiaries. The term "Confidential Information" does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by any person having an obligation of confidentiality to the Company or any of its subsidiaries; (ii) was or becomes available to the Executive on a non-confidential basis from a source other than the Company and its subsidiaries and affiliates and other than in connection with the Executive's employment by the Company; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any of its subsidiaries with respect to such information; (iii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the Company, and the Company has had a reasonable opportunity to oppose such disclosure; or (iv) is disclosed with the written approval of the Board.

(c) If the Executive becomes legally required (whether by deposition, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar processes) to disclose any Confidential Information, he will provide the Company with prompt notice thereof so that the Company may seek a protective order or other appropriate remedy and the Executive will, at the Company's expense, cooperate with and assist the Company in securing such protective order or other remedy. In the event that such protective order is not obtained, or the Company waives compliance with the provisions of this Section 10 to permit a particular disclosure, the Executive shall furnish only that portion of the Confidential Information that he is advised by counsel in writing is legally required to be disclosed and shall exercise his reasonable best efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. The Executive further agrees that all memoranda, disks, files, notes, records or other documents that contain Confidential Information, whether in electronic form or hard copy, and whether created by the Executive or others, that come into his possession, shall be and shall remain the exclusive property of the Company to be used by the Executive only in the performance of his obligations hereunder.

(d) The Executive is hereby notified that 18 U.S.C. § 1833(b) states as follows: “An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.” Accordingly, notwithstanding any other provision of this Agreement to the contrary, the Executive has the right to (1) disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of the law or (2) disclose trade secrets in a document filed in a lawsuit or other proceeding so long as that filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

11. **Return of Documents and Property**. Upon termination of the Executive's employment with the Company or any of its subsidiaries (for any reason) or at any other time upon the request of the Company, the Executive (or his heirs or personal representatives): (a) shall deliver, or cause to be delivered, to the Company, and shall not retain, all memoranda, disks, files, notes, records, documents or other materials obtained in connection with the Executive's employment with the Company or any of its subsidiaries or which otherwise relate to the business of the Company and its subsidiaries (whether or not containing Confidential Information) and shall not retain any copies thereof in any format or storage medium (including computer disk or memory); (b) purge from any computer system in his possession, other than those owned by and returned to the Company or any of its subsidiaries, all computer files that contain or are based upon any Confidential Information and confirm such purging in writing to the Company; and (c) return any other property that rightfully belongs to the Company or any of its subsidiaries, including, without limitation, computers and cellular phones, in accordance with the Company's policy in effect from time to time.



12. **Non-Compete**. The Executive agrees during the period commencing on the date hereof and ending twenty-four (24) months following the conclusion of the Term (the "**Non-Compete Period**"), not to, directly or indirectly (including through any affiliate), (a) compete with Company or its subsidiaries or the business of the Company or its subsidiaries as conducted on the last date of the Term (the "**Business**") or (b) (other than as a director, employee, agent, consultant, shareholder, member or manager of the Business or the Company) as an individual proprietor, partner, shareholder, member, equity holder, officer, director, manager, employee, consultant, independent contractor, joint venturer, investor or lender or otherwise, participate in any business or enterprise engaged anywhere in the United States in the provision of any services that are the same as, substantially similar to or competitive with the services that the Company or any of its subsidiaries was selling or providing or, to the Executive's knowledge, actively planning to sell or provide, during the twelve months preceding the end of the Term (each, a "**Competing Business**"), provided that this clause (b) shall not be construed to prevent the Executive from being employed by a division or a subsidiary of a Competing Business if the Executive's services to such division or subsidiary do not, in fact, compete with the Company or any of its subsidiaries. The foregoing restrictions shall not be construed to prohibit the ownership by the Executive of (i) not more than three percent (3%) of any class of equity securities of any corporation having a class of equity securities registered pursuant to the Securities Exchange Act of 1934 (a "**public company**") that are publicly owned and regularly traded on any national securities exchange or over-the-counter market or (ii) debt instruments of any privately owned entity, governmental entity, governmental entity, quasi-governmental entity, bond issuer or public company, if, with respect to both clauses (i) and (ii), such ownership represents a personal investment and the Executive does not either directly or indirectly

in any way manage or exercise control of any such privately owned entity, governmental entity, quasi-governmental entity, bond issuer or public company, guarantee any of its financial obligations or otherwise take part in its business other than exercising the Executive's rights as a debt or equity holder, or seek to do any of the foregoing.

13. **Non-Solicitation of Vendors, Etc.** During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term (the "**Vendor Non-Solicitation Period**"), the Executive agrees not to, except as otherwise necessary or advisable in the performance of his duties as an officer, director, manager, employee or consultant of the Company, its subsidiaries, or any of their respective affiliates, directly or indirectly, on his behalf or on behalf of any other person or entity (a) induce or solicit any supplier, subcontractor, licensee, distributor, funding source or business relation, or any person or entity that was a supplier, subcontractor, licensee, distributor, funding source or business relation at any time during the twelve (12) months preceding the end of the Term, to cease doing business with the Business or the Company or any of its subsidiaries, or in any way negatively interfere with the relationship between any such supplier, subcontractor, licensee, distributor, funding source or business relation of the Business, the Company or any of their respective affiliates; (b) disclose the identity of any supplier, subcontractor, licensee, distributor, funding source or business relation of the Business or the Company or any of its subsidiaries to any person or entity if such relationship is confidential; or (c) attempt to do any of the foregoing, or knowingly assist, entice, induce or encourage any other person or entity to do or attempt to do any activity which, were it done by the Executive, would violate any provision of this Section 14.

14. **Non-Solicitation or Hire of Employees**. During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term, the Executive agrees that he shall not, directly or indirectly, solicit or in any manner encourage to leave the employ of the Company for an engagement in any capacity by another person or entity, or hire any employee or consultant of the Company or any person who was an employee or consultant of the Company at any time during the last six (6) months of the Term. Notwithstanding the foregoing, the Executive shall not by reason of this Agreement be precluded from engaging in general solicitations of employment not targeted at employees and consultants of the Company.



15. **Enforceability of Restrictive Covenants**.

(a) In the event that the Executive's employment with the Company or any of its subsidiaries (i) is terminated by the Company or such subsidiary for any reason other than for Cause (including the Company's delivery of a Non-Extension Notice) or (ii) the Executive terminates his employment with the Company for Good Reason, then the terms of both the Non-Compete Period and the Vendor Non-Solicitation Period shall be reduced such that they end on the twelve (12) month anniversary of the conclusion of the Term.

(b) The Executive hereby acknowledges and agrees that (i) the restrictions on his activities contained in Sections 10, 11, 12, 13 and 14 hereof are necessary for the reasonable protection of the Company, its subsidiaries and their goodwill and are a material inducement to the Company entering into this Agreement and (ii) a breach or threatened breach of any such provisions will cause irreparable harm to the Company and its subsidiaries for which there is no adequate remedy at law.

(c) The Executive agrees that in the event of any breach or threatened breach of any provision contained in Sections 10, 11, 12, 13 and 14 hereof, the Company shall be entitled, in addition to any other rights or remedies available to the Company at law, in equity or otherwise, to a temporary, preliminary or permanent injunction or injunctions and temporary restraining order or orders to prevent breaches of such provisions and to specifically enforce the terms and provisions thereof.

(d) The parties acknowledge that the time, scope and other provisions contained in Sections 10, 11, 12, 13 and 14 hereof are reasonable and necessary to protect the goodwill and business of the Company and its subsidiaries and affiliates. Notwithstanding the foregoing, if any covenant contained in Sections 10, 11, 12, 13 and 14 hereof is held to be unenforceable by reason of the time or scope, such covenant shall be interpreted to extend to the maximum time or scope for which it may be enforced as determined by a court making such determination, and such covenant shall only apply in its reduced form to the operation of such covenant in the particular jurisdiction in which such adjudication is made.

(e) In the event of any breach by the Executive of any of the restrictive covenants contained in Sections 10, 11, 12, 13 and 14 hereof, the running of the period of the applicable restriction shall be automatically tolled and suspended for the duration of such breach, and shall automatically recommence when such breach is remedied in order that the Company or any of its subsidiaries or affiliates shall receive the full benefit of the Executive's compliance with each of the covenants contained in Sections 10, 11, 12, 13 and 14 hereof.

(f) The provisions of Sections 11, 12, 13, 14 and 15 hereof are in addition to and supplement any other agreements, covenants or obligations to which the Executive is or may be bound from time to time, including agreements, covenants and obligations set forth in the Operating Partnership Agreement of the Company, the Equity Incentive Plan and any grant agreement.



16. **Representations and Warranties; Indemnity**. The Executive represents and warrants to the Company that the execution and delivery of this Agreement by him and the performance by him of his obligations hereunder shall not constitute (with or without notice or lapse of time or both) a breach or violation of a provision of any understanding, contract or commitment, written or oral, express or implied, to which the Executive is a party or to which the Executive is or may be bound, including, without limitation, any understanding, contract or commitment with any present or former employer, in each case, that imposes restrictions that would, or would reasonably be expected to, interfere with the Executive's ability to perform his obligations under this Agreement. The Executive hereby agrees to indemnify and hold the Company harmless from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by the Company in connection with any such breach or violation by the Executive of any such understanding, contract or commitment.

17. **Taxes**. Payment of all compensation and benefits to the Executive by the Company shall be subject to all legally required and customary withholdings. The Company makes no representations regarding the tax implications of the compensation and benefits to be paid to the Executive under this Agreement, including, without limitation, under Section 409A ("**Section 409A**") of the Internal Revenue Code of 1986, as amended (the "**Code**") and applicable administrative guidance and regulations. It is intended that this Agreement will comply with Section 409A and all regulations and guidance issued thereunder to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent.

(a) Each payment made under this Agreement shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-l(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Treasury Regulation §§ 1.409A-1 through A-6.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-1(h) and (iii) Executive is employed by a public company or a controlled group affiliate thereof: no payments hereunder that are "deferred compensation" subject to Section 409A shall be made to Executive prior to the date that is six (6) months after the date of separation from service or, if earlier, the date of death; following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.



(c) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement or the provision of any in-kind benefit in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive

incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

18. **Binding Effect; Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and the Executive consents to the assignment by the Company of its rights and obligations under this Agreement to any subsidiary the Company or to any purchaser or assignee of all or substantially all of the stock or assets of the Company or its business. The Executive may not assign any of his rights or delegate any of his duties hereunder without the prior written consent of the Board (which may be granted or withheld in the Board's sole discretion).

19. **Entire Agreement**. This Agreement and the agreements referred to herein, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof and thereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby cancelled and terminated.

20. **Amendment**. This Agreement may not be amended, supplemented or modified in whole or in part except by an instrument in writing signed by the party against whom enforcement of any such amendment, supplement or modification is sought.

21. **Survival**. Subject to the last sentence of Section 2, the provisions of Sections 8(h) and 9 through 36 hereof shall survive the termination or expiration of this Agreement and the Term.



22. **Notices**. Any notice, request or other document required or permitted to be given under this Agreement shall be in writing and shall be deemed given (a) upon actual receipt by the party to which such notice shall be directed if delivered by hand or sent by facsimile or electronic mail; (b) three (3) days after the date of deposit in the mail, postage prepaid, if mailed by U.S. certified or registered mail; or (c) on the next business day, if sent by prepaid overnight courier service, in each case, addressed as follows:

(a) If to the Executive, to:

Ramiro Albarran
c/o PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
E-mail: [Omitted]

(b) If to the Company to:

PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
Attn: General Counsel
E-mail: [Omitted]

Either party may change the address to which notice shall be sent by giving notice of such change of address to the other party in the manner provided above.

23. **Waivers**. The failure or delay of any party to enforce any provision of this Agreement shall in no way affect the right of such party to enforce the same or any other provision of this Agreement. The waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver by such party of any succeeding breach of such provision or a waiver by such party of a breach of any other provision. The granting of any consent or approval by any party in any one instance shall not be construed to waive or limit the need for such consent or approval in any other or subsequent instance.

24. **Governing Law; Waiver of Jury Trial**. The parties hereby agree that all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement, together with any dispute arising hereunder, shall be governed by the internal Laws of the State of Texas without giving effect to any choice of Law or conflict of Law

provision or rule, notwithstanding that public policy in Texas or any other forum jurisdiction might indicate that the Laws of that or any other jurisdiction should otherwise apply based on contacts with such state or otherwise. Each party hereby irrevocably agree that any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the courts of the State of Texas or any federal court of the District of Texas and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereto hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the address provided in accordance with Section 23 above, such service to become effective ten (10) days after such mailing.

25. **Severability**. Without limiting the generality of Section 15(e), if any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain enforceable and the invalid, illegal or unenforceable provisions shall be modified so as to be valid and enforceable and shall be enforced.



26. **Section Headings**. Section headings are included in this Agreement for convenience of reference only, and shall in no way affect the meaning or interpretation of this Agreement.

27. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

28. **Number of Days**. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; **provided**, **however**, if the final day of any time period falls on a Saturday, Sunday or holiday on which federal banks in the United States are or may elect to be closed, then the final day shall be deemed to be the next day that is not Saturday, Sunday or such holiday.

29. **Enforcement of Rights; Decisions by the Board**. Any and all decisions to be made by the Company in connection with enforcing the terms and provisions of this Agreement (or exercising any right or remedy hereunder) shall be made by a vote of the majority of the Board (excluding, for any such purpose, the vote of the Executive, if he is then serving on the Board).

30. **Cooperation with Regard to Litigation**. The Executive agrees to cooperate with the Company, during the Term and thereafter, by being available as reasonably requested to testify on behalf of the Company or its subsidiaries in any action, suit or proceeding relating to the Company or its business, whether civil, criminal, administrative or investigative. In addition, except to the extent that the Executive has or intends to assert in good faith an interest or position adverse to or inconsistent with the interest or position of the Company or its subsidiaries, the Executive agrees to cooperate with the Company and its subsidiaries, during the Term and thereafter to assist the Company and its subsidiaries in any such action, suit or proceeding by providing information and meeting and consulting with the Board or its representatives or counsel, or representatives or counsel to the Company or its subsidiaries, in each case, as reasonably requested by the Company. The Company agrees to pay (or reimburse, if already paid by the Executive) all reasonable expenses actually incurred in connection with the Executive's cooperation and assistance including, without limitation, reasonable fees and disbursements of counsel, if any, chosen by the Executive.

31. **Joint Drafting**. In recognition of the fact that the parties hereto had an equal opportunity to draft and to negotiate the language of this Agreement, the parties acknowledge and agree that there is no single drafter of this Agreement and therefore, the general rule that ambiguities are to be construed against the drafter is, and shall be, inapplicable.

32. **Cumulative Remedies**. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available, whether by contract, at law, in equity or otherwise.

33. **Indulgences; Waiver of Breach**. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

34. **Assignment; Binding Nature of Agreement**. This Agreement is personal to Executive, and Executive may not assign, delegate or transfer his rights or obligations hereunder. This Agreement is assignable by the Company in its sole and absolute discretion; provided that the assignee is not less creditworthy in any material respect than the Company. This Agreement, including the restrictive covenants in Sections 12 and 13 above, shall be binding upon and inure to the benefit of the Company and its successors and assigns, and shall be binding upon Executive, his heirs and legal representatives.

35. **No Statements or Promises to Executive**. Executive acknowledges that no statements or promises have been made to Executive and Executive has not relied upon any statements or promises as an inducement to accept employment or sign this Agreement, except those statements contained herein.

36. **Withholding; Taxes**. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, non-U.S. or other taxes as are required or permitted to be withheld pursuant to any applicable law or regulation. Executive shall be responsible for all taxes (including self-employment taxes, if applicable) in connection with his status as a member of the Company for U.S. federal income tax purposes.

[*Remainder of this page intentionally left blank; signature page follows*.]



IN WITNESS WHEREOF, the parties have executed this Employment Agreement as of the day and year first written above.

PHCC OP, LP

By: _____
Name:
Title:

EXECUTIVE

By: _____
Name:
Title:

**Exhibit 10.13**

# FORM OF EMPLOYMENT AGREEMENT

This Employment Agreement (as the same may be amended from time to time, this "**Agreement**"), is entered into as of [●] (the "**Effective Date**"), between PHCC OP, LP, a Delaware limited partnership (the "**Company**"), and Charlie Visconsi, an individual (the "**Executive**").

## R E C I T A L S

WHEREAS, the Company desires to employ the Executive, and the Executive has agreed to be employed by the Company, on the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Employment**. The Company hereby agrees to employ the Executive to serve in the capacities described in this Agreement, and the Executive agrees to accept such employment and perform such services, upon the terms and subject to the conditions set forth herein.

2. **Term**. Unless the Executive's employment shall sooner terminate pursuant to Section 9 hereof, the Company shall employ the Executive for a term commencing on the Effective Date and ending on the two (2) year anniversary of the Effective Date (the "**Initial Period**"). Effective upon the expiration of the Initial Period and of each Additional Period (as defined below), the Executive's employment hereunder shall be deemed to be automatically extended, upon the same terms and conditions, for an additional period of one (1) year (each, an "**Additional Period**"), in each such case, commencing upon the expiration of the Initial Period or the then current Additional Period, as the case may be, unless, at least sixty (60) days prior to the expiration of the Initial Period or such Additional Period, either party shall give written notice to the other (a "**Non-Extension Notice**") of its intention not to extend the Term (as defined below). The period during which the Executive is employed pursuant to this Agreement shall be referred to as the "**Term**."

3. **Duties and Responsibilities**.

(a) **Title**. The Executive shall hold the title of Co-Head of Originations of Preston Hollow Community Capital, Inc. ("**Corporation**") [and shall hold the positions and titles of other affiliates of other affiliates of the Corporation and the Company as are listed in Appendix A]**,** and shall have such authority and responsibility as is customary for such position consistent with the constituent documents of the Company (as the same may be amended from time to time, the "**Constituent Documents**") or as otherwise determined by the Chief Executive Officer or the board of directors of the Corporation (the "**Board**").

(b) **Standard of Care**. The Executive shall at all times perform his duties and responsibilities honestly, diligently, in good faith and to the best of his ability and shall observe and comply with all of the policies and procedures established by the Company and the Board from time to time (including any employee handbook, compliance manual or code of ethics of the Company or any of its subsidiaries) that are applicable to the Company's senior executives, and with all applicable laws, rules and regulations imposed by any governmental or regulatory authorities.

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(c) **Devotion of Time**. The Executive will exercise his best efforts in furtherance of, and devote all of his business time (except for vacation as permitted hereunder and reasonable absence for illness) to, the operation of the business and affairs the Company and its subsidiaries; **provided**, **however**, **that** the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs and (ii) managing his and his family's personal investments, so long as such activities do not, individually or in the aggregate, (x) violate any covenants applicable to the Executive hereunder or under any other document, agreement or instrument to which the Executive is a party or (y) interfere with the performance of the Executive's duties and responsibilities as an employee of the Company and its subsidiaries in accordance with the terms hereof.

(d) **Situs of Work**. The Executive shall be principally based at the Company's executive headquarters in Dallas, Texas or such other locations agreed to by the Executive and the Company, subject to such reasonable travel as may be necessary to fulfill the Executive's obligations under this Agreement.

4. **Compensation**. As compensation for his services hereunder and in consideration of the covenants set forth in this Agreement:

(a) **Base Salary**. The Company shall pay to the Executive an annual base salary (the "**Base Salary**") equal to four hundred thousand dollars ($400,000) per annum. The Executive's Base Salary shall be subject to annual review by the compensation committee of the Board and may be increased, but not decreased (except as described in Section 8(f)(ii) below), without the consent of the Executive, from time to time by the Board (or a committee of the Board) in its sole discretion. The Base Salary shall be payable in accordance with the Company's customary payroll practices and procedures and shall be prorated for any partial period during the Term.

(b) **Annual Performance Bonus**. In addition to Base Salary, the Executive shall be eligible to receive annual bonus compensation each fiscal year thereafter during the Term, in an amount to be determined for each such fiscal year by the compensation committee of the Board in its sole discretion based upon such committee's assessment of the Company and the Executive during the relevant fiscal year (the bonus for each respective year, the "**Annual Bonus**"). Except as provided in Section 9(c) below, the Executive shall not be entitled to receive an Annual Bonus unless he is employed by the Company through the date such Annual Bonus is paid. Any Annual Bonus shall be paid to the Executive in cash on or before March 15 of the year following the fiscal year to which such Annual Bonus relates.

5. **Executive Benefits**. The Executive shall be entitled to participate in all employee benefit plans and programs (including, without limitation, retirement, medical, disability and life insurance plans and programs) that are established and made generally available by the Company or one of its subsidiaries from time to time to its senior executives, subject, however, to the applicable eligibility requirements and other provisions of such plans and programs (including, without limitation, requirements as to position, tenure, location, salary, age and health). The Company shall have the unlimited right in its sole and absolute discretion to change its benefit plans and programs from time to time so long as any such change does not discriminate against the Executive and does not diminish the economic value of the Executive's compensation and benefits, and this Agreement shall be deemed automatically amended upon the effectiveness of such change.



6. **Vacation**. The Executive shall be entitled to three weeks of vacation per year in accordance with the Company's policies for senior executives of the Company, as modified from time to time, provided that such vacation shall not adversely interfere with the Executive's operation of the business and affairs of the Company and its subsidiaries.

7. **Reimbursement of Expenses**. The Company shall pay or reimburse the Executive for all reasonable, documented and necessary travel, business entertainment and other out-of-pocket expenses actually incurred by him in connection with the performance of his duties hereunder in accordance with the Company's travel policies and expense reimbursement guidelines or such other policies, procedures and limits of the Company as in effect from time to time (as determined by the Board) including, without limitation, the submission of reasonable written verification or receipts documenting such expenses.

8. **Termination**. The Executive's employment hereunder may be terminated as follows:

(a) **For Cause**. The Company shall have the right, in addition to any other rights and remedies that the Company may have (at law, in equity or otherwise), to immediately terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder by delivery of written notice to the Executive approved by the Board after the occurrence of any event constituting "Cause." For purposes of this Agreement, "**Cause**" shall mean: (i) the Executive has engaged in one or more acts constituting a felony; (ii) the Executive refuses to comply with direct instructions of the Chief Executive Officer, the Board or his or its designee that are consistent with Executive's duties to the Company and with relevant requirements of applicable law, as set forth in a written notice to Executive, such compliance to be within fifteen (15) days following such notice or such other time as may be reasonably required for such compliance as determined by the Company in good faith; (iii) the Executive engages in intentionally dishonest or willful misconduct; (iv) the Executive perpetrates a fraud, theft, or embezzlement or misappropriation against or affecting the Company, any subsidiary, any of their respective affiliates or any customer, client, agent, creditor, equity holder or employee of the Company, such subsidiary, or any of their respective affiliates; (v) the Executive breaches any material representation or warranty that such person made, or material obligation

that such person owes, to the Company or any of its subsidiaries or affiliates under this Agreement, the Operating Partnership Agreement of the Company, or any other written agreement, which breach, to the extent curable, is not cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary; (vi) the Executive is indicted on charges of, commits, or is convicted of, or enters a plea of guilty or *nolo contendere* to, a felony or a crime involving fraud or dishonesty; (vii) the Executive habitually abuses alcohol or controlled substances without a prescription or (viii) the Executive violates any Law or other regulations applicable to the Company, any subsidiary or any of their respective affiliates or breaches any of his duties to the Company, any subsidiary or any of their respective affiliates that in each case, for purposes of this clause (ix), materially and adversely affects the Company, any subsidiary or any of their respective affiliates, unless such action or conduct is curable and is cured within fifteen (15) days following receipt of written notice from the Company or such subsidiary.



(b) **Death**. The Term shall automatically terminate without notice to either party in the event of the Executive's death.

(c) **Disability**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries hereunder in the event of Disability. For purposes of this Agreement, "**Disability**" shall mean that the Executive shall be unable to perform because of illness or incapacity, physical or mental, the essential functions, duties and responsibilities to be performed by the Executive for a consecutive period of one hundred and eighty (180) days during any consecutive twelve (12) month period.

(d) **Without Cause**. The Company shall have the right to terminate the Term and the Executive's employment with the Company or any of its subsidiaries at any time without Cause on ten (10) days prior written notice to the Executive.

(e) **Mutual Agreement**. The parties may terminate the Executive's employment with the Company or any of its subsidiaries hereunder upon their mutual written consent.

(f) **Good Reason**. The Executive may terminate the Term and his employment with the Company and any of its subsidiaries hereunder for good reason ("**Good Reason**") following the occurrence of one or more of the events constituting "Good Reason." For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of one or more of the following events (unless such event is curable, in which case such event will not constitute Good Reason unless such event remains uncured fifteen (15) days following receipt by the Company of written demand from the Executive to cure such event): (i) the Company's or any subsidiary's failure to pay any salary or any other material compensatory amounts due to the Executive when such payments or amounts are due; (ii) a reduction in the Executive's base salary (other than due to the Company's or its subsidiaries' financial performance or cash needs, and provided such reduction is applied in like proportion to all similarly situated executives of the Corporation or the Company); (iii) a relocation of the Executive's primary place of work to a site more than fifty (50) miles from the Executive's primary place of work as of the Effective Date resulting in a commute for the Executive of not less than an additional 50 miles; or (iv) a material diminution in the Executive's duties, responsibilities, authority or reporting lines. Notwithstanding anything to the contrary contained in this Agreement, in order for the Executive to terminate his employment hereunder for Good Reason, the Executive must provide written notice to the Company within the thirty (30) day period commencing upon the occurrence of the Good Reason.

(g) **Without Good Reason**. The Executive shall have the right to terminate the Term and the Executive's employment with the Company and any of its subsidiaries at any time without Good Reason on sixty (60) days prior written notice to the Company. The Company, in its sole discretion, may reduce or eliminate such notice period, provided that such termination shall continue to be deemed to be by Executive without Good Reason.



(h) **Effect of Termination**. Effective as of any date of termination of the Executive's employment with the Company or any of its subsidiaries, without any further action required by any party, the Executive shall be removed from, and shall no longer hold, all positions then held by him with the Company or any of its subsidiaries. The Executive agrees that he shall execute any documentation, resignations or similar documents reasonably necessary to give effect to the provisions of this Section 8(h).

(i) **Cessation of Professional Activity**. Upon delivery of a written notice of termination by any party, the Company may relieve the Executive of his duties and responsibilities and require the Executive to immediately cease all professional activity on behalf the Company and its subsidiaries. In addition, in the event that the Board determines that there is a reasonable basis for it to investigate whether circumstances exist that would, if true, permit the Board to terminate the Executive's employment for Cause, the Board may relieve the Executive of his duties and responsibilities during the pendency of such investigation. During any period that the Executive is relieved of duties and responsibilities pursuant to this Section 8(i), the Executive shall continue to be entitled to all salary, benefits, reimbursements, vesting of Incentive Common Units and any other consideration provided for under this Agreement.

9. **Payments Upon Termination**.

(a) **Payments Upon Termination (other than with Good Reason, without Cause or upon the Company's delivery of a Non-Extension Notice)**. If the Executive's employment with the Company or its subsidiaries shall be terminated during the Term as a result of any of the events set forth in Sections 8(a), (b), (c), (e) or (g) hereof or as a result of the Executive having terminated his employment with the Company for any reason, including the Executive's delivery of a Non-Extension Notice (other than pursuant to Section 8(f) hereof), then the Company shall:

(i) pay to the Executive (or his heirs and/or personal representatives) his Base Salary at the time of termination earned through the date of termination (to the extent not already paid); and

(ii) reimburse the Executive for any expenses for which the Executive is entitled to reimbursement under Section 7 hereof;

**provided that** upon the satisfaction of its obligations in this Section 9(a), the Company shall have no further obligation to the Executive under this Agreement.

(b) **Payments Upon Termination (upon the Company's delivery of a Non-Extension Notice)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated upon the Company's delivery of a Non-Extension Notice, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twelve (12) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9 (d) and such release becomes nonrevocable;



**provided that**, upon the satisfaction of its obligations in this Section 9(b), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Section 9(b)(ii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.

(c) **Payments Upon Termination (with Good Reason or without Cause)**. If this Agreement and the Executive's employment with the Company or its subsidiaries shall be terminated during the Term pursuant to Section 8(d) hereof (for a reason other than those covered by Sections 8(a), (b), (c), (e) or (g) hereof), or if the Executive shall terminate his employment pursuant to Section 8(f) hereof, then the Company shall:

(i) pay or reimburse the Executive for the amounts set forth in clauses (i) and (ii) of Section 9(a) hereof;

(ii) pay to the Executive a pro rata Annual Bonus for the year in which such termination occurs in an amount equal to (a) 100% of the Annual Bonus earned by the Executive in the year prior to such termination multiplied by (b) a fraction, the numerator

of which is the number of days in such year from January 1 through the date of termination and the denominator of which is 365, payable as and when such Annual Bonus would have been payable had the Executive's employment not terminated; and

(iii) continue to pay the Base Salary and to provide coverage under the Company's (or its subsidiary's) applicable medical and dental plans for a period of twenty-four (24) months following the date of termination, with such Base Salary payments made in equal installments in accordance with the Company's standard payroll practices beginning as soon as practicable after the Executive executes and delivers the release required pursuant to Section 9(d) and such release becomes nonrevocable;

**provided that**, upon the satisfaction of its obligations in this Section 9(c), the Company shall have no further obligation to the Executive under this Agreement, except that any equity awards granted under the Equity Incentive Plan to the Executive as described in Section 4(c) shall be governed in all respects by the Equity Incentive Plan and applicable grant agreement; and **provided**, **further**, **that** the Company's obligation to make payments pursuant to Sections 9(c)(ii) and 9(c)(iii) shall terminate immediately in the event that Executive breaches or has breached any obligation under Sections 10, 11, 12, 13 and 14 hereof, provided that, if the breach is curable, the Company shall first provide notice to the Executive and a fifteen (15) day opportunity for the Executive to cure such breach.



(d) **Release**. The Executive agrees, as a condition to receipt of any termination payments and benefits provided for in Sections 9(b)(ii), 9(c)(ii) and 9(c)(iii), that the Executive will execute a general release agreement, in form and substance reasonably satisfactory to the Company, releasing any and all claims the Executive may have arising out of the Executive's employment (other than enforcement of this Section 9) and deliver such executed release to the Company not later than fifty-two (52) days after the date of termination. The Company shall provide the form of release to the Executive within five (5) business days after termination of the Executive's employment by the Company without Cause or by the Executive for Good Reason. The Executive shall not be entitled to receive any amount under Sections 9(b)(ii), 9(c)(ii) or 9(c)(iii) unless the release has become fully enforceable and nonrevocable prior to the sixtieth (60th) day after the date of termination.

10. **Confidential Information**.

(a) The Executive agrees to at all times during the Term and thereafter: (i) hold in the strictest confidence and neither use in any manner detrimental to the Company or any of its subsidiaries or affiliates, nor disclose, publish or divulge, directly or indirectly, to any individual or entity, any Confidential Information; and (ii) inform all other persons or entities to whom the Executive discloses Confidential Information of the proprietary interest and nature of such Confidential Information and of the recipient's obligations to keep such information confidential. The Executive agrees that the foregoing restrictions shall apply whether or not such information is marked "Confidential".

(b) For purposes of this Agreement, the term "**Confidential Information**" shall include, with respect to the Company and each of its subsidiaries, all data, information, reports, interpretations, forecasts and records, financial or otherwise, including all property owned by the Company and each of its subsidiaries or in which any of them have any rights and information related to the business or financial affairs of the Company and each of its subsidiaries, including but not limited to customer lists and accounts, prospective customer lists, customer data, systems, policies, manuals, advertising, marketing plans, marketing strategies, research, trade secrets, business plans, financial data, strategies, methods of conducting business, cost and pricing information, formulas, processes, procedures, standards, manuals, techniques, designs, technology, confidential reports, computer software, financial and performance results and other data, telephone and other contact lists, contract forms, catalogues, books, records, files and all other information, knowledge, or data of any kind or nature relating to the products, services, customers, financing sources, employees, investors or business of the Company and each of its subsidiaries. The term "Confidential Information" does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by any person having an obligation of confidentiality to the Company or any of its subsidiaries; (ii) was or becomes available to the Executive on a non-confidential basis from a source other than the Company and its subsidiaries and affiliates and other than in connection with the Executive's employment by the Company; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Company or any of its subsidiaries with respect to such information; (iii) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the Company, and the Company has had a reasonable opportunity to oppose such disclosure; or (iv) is disclosed with the written approval of the Board.

(c) If the Executive becomes legally required (whether by deposition, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar processes) to disclose any Confidential Information, he will provide the Company with prompt notice thereof so that the Company may seek a protective order or other appropriate remedy and the Executive will, at the Company's expense, cooperate with and assist the Company in securing such protective order or other remedy. In the event that such protective order is not obtained, or the Company waives compliance with the provisions of this Section 10 to permit a particular disclosure, the Executive shall furnish only that portion of the Confidential Information that he is advised by counsel in writing is legally required to be disclosed and shall exercise his reasonable best efforts to obtain reliable assurances that confidential treatment will be afforded the Confidential Information. The Executive further agrees that all memoranda, disks, files, notes, records or other documents that contain Confidential Information, whether in electronic form or hard copy, and whether created by the Executive or others, that come into his possession, shall be and shall remain the exclusive property of the Company to be used by the Executive only in the performance of his obligations hereunder.

(d) The Executive is hereby notified that 18 U.S.C. § 1833(b) states as follows: "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Accordingly, notwithstanding any other provision of this Agreement to the contrary, the Executive has the right to (1) disclose in confidence trade secrets to federal, state, and local government officials, or to an attorney, for the sole purpose of reporting or investigating a suspected violation of the law or (2) disclose trade secrets in a document filed in a lawsuit or other proceeding so long as that filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).

11. **Return of Documents and Property**. Upon termination of the Executive's employment with the Company or any of its subsidiaries (for any reason) or at any other time upon the request of the Company, the Executive (or his heirs or personal representatives): (a) shall deliver, or cause to be delivered, to the Company, and shall not retain, all memoranda, disks, files, notes, records, documents or other materials obtained in connection with the Executive's employment with the Company or any of its subsidiaries or which otherwise relate to the business of the Company and its subsidiaries (whether or not containing Confidential Information) and shall not retain any copies thereof in any format or storage medium (including computer disk or memory); (b) purge from any computer system in his possession, other than those owned by and returned to the Company or any of its subsidiaries, all computer files that contain or are based upon any Confidential Information and confirm such purging in writing to the Company; and (c) return any other property that rightfully belongs to the Company or any of its subsidiaries, including, without limitation, computers and cellular phones, in accordance with the Company's policy in effect from time to time.



12. **Non-Compete**. The Executive agrees during the period commencing on the date hereof and ending twenty-four (24) months following the conclusion of the Term (the "**Non-Compete Period**"), not to, directly or indirectly (including through any affiliate), (a) compete with Company or its subsidiaries or the business of the Company or its subsidiaries as conducted on the last date of the Term (the "**Business**") or (b) (other than as a director, employee, agent, consultant, shareholder, member or manager of the Business or the Company) as an individual proprietor, partner, shareholder, member, equity holder, officer, director, manager, employee, consultant, independent contractor, joint venturer, investor or lender or otherwise, participate in any business or enterprise engaged anywhere in the United States in the provision of any services that are the same as, substantially similar to or competitive with the services that the Company or any of its subsidiaries was selling or providing or, to the Executive's knowledge, actively planning to sell or provide, during the twelve months preceding the end of the Term (each, a "**Competing Business**"), provided that this clause (b) shall not be construed to prevent the Executive from being employed by a division or a subsidiary of a Competing Business if the Executive's services to such division or subsidiary do not, in fact, compete with the Company or any of its subsidiaries. The foregoing restrictions shall not be construed to prohibit the ownership by the Executive of (i) not more than three percent (3%) of any class of equity securities of any corporation having a class of equity securities registered pursuant to the Securities Exchange Act of 1934 (a "**public company**") that are publicly owned and regularly traded on any national securities exchange or over-the-counter market or (ii) debt instruments of any privately owned entity, governmental entity, governmental entity, quasi-governmental entity, bond issuer or public company, if, with respect to both clauses (i) and (ii), such ownership represents a personal investment and the Executive does not either directly or indirectly

in any way manage or exercise control of any such privately owned entity, governmental entity, quasi-governmental entity, bond issuer or public company, guarantee any of its financial obligations or otherwise take part in its business other than exercising the Executive's rights as a debt or equity holder, or seek to do any of the foregoing.

13. **Non-Solicitation of Vendors, Etc.** During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term (the "**Vendor Non-Solicitation Period**"), the Executive agrees not to, except as otherwise necessary or advisable in the performance of his duties as an officer, director, manager, employee or consultant of the Company, its subsidiaries, or any of their respective affiliates, directly or indirectly, on his behalf or on behalf of any other person or entity (a) induce or solicit any supplier, subcontractor, licensee, distributor, funding source or business relation, or any person or entity that was a supplier, subcontractor, licensee, distributor, funding source or business relation at any time during the twelve (12) months preceding the end of the Term, to cease doing business with the Business or the Company or any of its subsidiaries, or in any way negatively interfere with the relationship between any such supplier, subcontractor, licensee, distributor, funding source or business relation of the Business, the Company or any of their respective affiliates; (b) disclose the identity of any supplier, subcontractor, licensee, distributor, funding source or business relation of the Business or the Company or any of its subsidiaries to any person or entity if such relationship is confidential; or (c) attempt to do any of the foregoing, or knowingly assist, entice, induce or encourage any other person or entity to do or attempt to do any activity which, were it done by the Executive, would violate any provision of this Section 14.

14. **Non-Solicitation or Hire of Employees**. During the period commencing on the date hereof and ending two (2) years following the conclusion of the Term, the Executive agrees that he shall not, directly or indirectly, solicit or in any manner encourage to leave the employ of the Company for an engagement in any capacity by another person or entity, or hire any employee or consultant of the Company or any person who was an employee or consultant of the Company at any time during the last six (6) months of the Term. Notwithstanding the foregoing, the Executive shall not by reason of this Agreement be precluded from engaging in general solicitations of employment not targeted at employees and consultants of the Company.



15. **Enforceability of Restrictive Covenants**.

(a) In the event that the Executive's employment with the Company or any of its subsidiaries (i) is terminated by the Company or such subsidiary for any reason other than for Cause (including the Company's delivery of a Non-Extension Notice) or (ii) the Executive terminates his employment with the Company for Good Reason, then the terms of both the Non-Compete Period and the Vendor Non-Solicitation Period shall be reduced such that they end on the twelve (12) month anniversary of the conclusion of the Term.

(b) The Executive hereby acknowledges and agrees that (i) the restrictions on his activities contained in Sections 10, 11, 12, 13 and 14 hereof are necessary for the reasonable protection of the Company, its subsidiaries and their goodwill and are a material inducement to the Company entering into this Agreement and (ii) a breach or threatened breach of any such provisions will cause irreparable harm to the Company and its subsidiaries for which there is no adequate remedy at law.

(c) The Executive agrees that in the event of any breach or threatened breach of any provision contained in Sections 10, 11, 12, 13 and 14 hereof, the Company shall be entitled, in addition to any other rights or remedies available to the Company at law, in equity or otherwise, to a temporary, preliminary or permanent injunction or injunctions and temporary restraining order or orders to prevent breaches of such provisions and to specifically enforce the terms and provisions thereof.

(d) The parties acknowledge that the time, scope and other provisions contained in Sections 10, 11, 12, 13 and 14 hereof are reasonable and necessary to protect the goodwill and business of the Company and its subsidiaries and affiliates. Notwithstanding the foregoing, if any covenant contained in Sections 10, 11, 12, 13 and 14 hereof is held to be unenforceable by reason of the time or scope, such covenant shall be interpreted to extend to the maximum time or scope for which it may be enforced as determined by a court making such determination, and such covenant shall only apply in its reduced form to the operation of such covenant in the particular jurisdiction in which such adjudication is made.

(e) In the event of any breach by the Executive of any of the restrictive covenants contained in Sections 10, 11, 12, 13 and 14 hereof, the running of the period of the applicable restriction shall be automatically tolled and suspended for the duration of such breach, and shall automatically recommence when such breach is remedied in order that the Company or any of its subsidiaries or affiliates shall receive the full benefit of the Executive's compliance with each of the covenants contained in Sections 10, 11, 12, 13 and 14 hereof.

(f) The provisions of Sections 11, 12, 13, 14 and 15 hereof are in addition to and supplement any other agreements, covenants or obligations to which the Executive is or may be bound from time to time, including agreements, covenants and obligations set forth in the Operating Partnership Agreement of the Company, the Equity Incentive Plan and any grant agreement.



16. **Representations and Warranties; Indemnity**. The Executive represents and warrants to the Company that the execution and delivery of this Agreement by him and the performance by him of his obligations hereunder shall not constitute (with or without notice or lapse of time or both) a breach or violation of a provision of any understanding, contract or commitment, written or oral, express or implied, to which the Executive is a party or to which the Executive is or may be bound, including, without limitation, any understanding, contract or commitment with any present or former employer, in each case, that imposes restrictions that would, or would reasonably be expected to, interfere with the Executive's ability to perform his obligations under this Agreement. The Executive hereby agrees to indemnify and hold the Company harmless from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by the Company in connection with any such breach or violation by the Executive of any such understanding, contract or commitment.

17. **Taxes**. Payment of all compensation and benefits to the Executive by the Company shall be subject to all legally required and customary withholdings. The Company makes no representations regarding the tax implications of the compensation and benefits to be paid to the Executive under this Agreement, including, without limitation, under Section 409A ("**Section 409A**") of the Internal Revenue Code of 1986, as amended (the "**Code**") and applicable administrative guidance and regulations. It is intended that this Agreement will comply with Section 409A and all regulations and guidance issued thereunder to the extent the Agreement is subject thereto, and the Agreement shall be interpreted on a basis consistent with such intent.

(a) Each payment made under this Agreement shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-l(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Treasury Regulation §§ 1.409A-1 through A-6.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Executive is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-1(h) and (iii) Executive is employed by a public company or a controlled group affiliate thereof: no payments hereunder that are "deferred compensation" subject to Section 409A shall be made to Executive prior to the date that is six (6) months after the date of separation from service or, if earlier, the date of death; following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.



(c) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Executive only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Executive's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar year in which Executive's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement or the provision of any in-kind benefit in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any lifetime or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Executive incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

18. **Binding Effect; Assignment**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and the Executive consents to the assignment by the Company of its rights and obligations under this Agreement to any subsidiary the Company or to any purchaser or assignee of all or substantially all of the stock or assets of the Company or its business. The Executive may not assign any of his rights or delegate any of his duties hereunder without the prior written consent of the Board (which may be granted or withheld in the Board's sole discretion).

19. **Entire Agreement**. This Agreement and the agreements referred to herein, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof and thereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby cancelled and terminated.

20. **Amendment**. This Agreement may not be amended, supplemented or modified in whole or in part except by an instrument in writing signed by the party against whom enforcement of any such amendment, supplement or modification is sought.

21. **Survival**. Subject to the last sentence of Section 2, the provisions of Sections 8(h) and 9 through 36 hereof shall survive the termination or expiration of this Agreement and the Term.



22. **Notices**. Any notice, request or other document required or permitted to be given under this Agreement shall be in writing and shall be deemed given (a) upon actual receipt by the party to which such notice shall be directed if delivered by hand or sent by facsimile or electronic mail; (b) three (3) days after the date of deposit in the mail, postage prepaid, if mailed by U.S. certified or registered mail; or (c) on the next business day, if sent by prepaid overnight courier service, in each case, addressed as follows:

(a) If to the Executive, to:

Charlie Visconsi
c/o PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
E-mail: [Omitted]

(b) If to the Company to:

PHCC OP, LP
1717 Main Street, Suite 3900
Dallas, TX 75201
Attn: General Counsel
E-mail: [Omitted]

Either party may change the address to which notice shall be sent by giving notice of such change of address to the other party in the manner provided above.

23. **Waivers**. The failure or delay of any party to enforce any provision of this Agreement shall in no way affect the right of such party to enforce the same or any other provision of this Agreement. The waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver by such party of any succeeding breach of such provision or a waiver by such party of a breach of any other provision. The granting of any consent or approval by any party in any one instance shall not be construed to waive or limit the need for such consent or approval in any other or subsequent instance.

24. **Governing Law; Waiver of Jury Trial**. The parties hereby agree that all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement, together with any dispute arising hereunder, shall be governed by the internal Laws of the State of Texas without giving effect to any choice of Law or conflict of Law provision or rule, notwithstanding that public policy in Texas or any other forum jurisdiction might indicate that the Laws of that or any other jurisdiction should otherwise apply based on contacts with such state or otherwise. Each party hereby irrevocably agree that

any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the courts of the State of Texas or any federal court of the District of Texas and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereto hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the address provided in accordance with Section 23 above, such service to become effective ten (10) days after such mailing.

25. **Severability**. Without limiting the generality of Section 15(e), if any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain enforceable and the invalid, illegal or unenforceable provisions shall be modified so as to be valid and enforceable and shall be enforced.



26. **Section Headings**. Section headings are included in this Agreement for convenience of reference only, and shall in no way affect the meaning or interpretation of this Agreement.

27. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

28. **Number of Days**. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; **provided**, **however**, if the final day of any time period falls on a Saturday, Sunday or holiday on which federal banks in the United States are or may elect to be closed, then the final day shall be deemed to be the next day that is not Saturday, Sunday or such holiday.

29. **Enforcement of Rights; Decisions by the Board**. Any and all decisions to be made by the Company in connection with enforcing the terms and provisions of this Agreement (or exercising any right or remedy hereunder) shall be made by a vote of the majority of the Board (excluding, for any such purpose, the vote of the Executive, if he is then serving on the Board).

30. **Cooperation with Regard to Litigation**. The Executive agrees to cooperate with the Company, during the Term and thereafter, by being available as reasonably requested to testify on behalf of the Company or its subsidiaries in any action, suit or proceeding relating to the Company or its business, whether civil, criminal, administrative or investigative. In addition, except to the extent that the Executive has or intends to assert in good faith an interest or position adverse to or inconsistent with the interest or position of the Company or its subsidiaries, the Executive agrees to cooperate with the Company and its subsidiaries, during the Term and thereafter to assist the Company and its subsidiaries in any such action, suit or proceeding by providing information and meeting and consulting with the Board or its representatives or counsel, or representatives or counsel to the Company or its subsidiaries, in each case, as reasonably requested by the Company. The Company agrees to pay (or reimburse, if already paid by the Executive) all reasonable expenses actually incurred in connection with the Executive's cooperation and assistance including, without limitation, reasonable fees and disbursements of counsel, if any, chosen by the Executive.

31. **Joint Drafting**. In recognition of the fact that the parties hereto had an equal opportunity to draft and to negotiate the language of this Agreement, the parties acknowledge and agree that there is no single drafter of this Agreement and therefore, the general rule that ambiguities are to be construed against the drafter is, and shall be, inapplicable.

32. **Cumulative Remedies**. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available, whether by contract, at law, in equity or otherwise.

33. **Indulgences; Waiver of Breach**. Neither the failure nor any delay on the part of either party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence.

34. **Assignment; Binding Nature of Agreement**. This Agreement is personal to Executive, and Executive may not assign, delegate or transfer his rights or obligations hereunder. This Agreement is assignable by the Company in its sole and absolute discretion; provided that the assignee is not less creditworthy in any material respect than the Company. This Agreement, including the restrictive covenants in Sections 12 and 13 above, shall be binding upon and inure to the benefit of the Company and its successors and assigns, and shall be binding upon Executive, his heirs and legal representatives.

35. **No Statements or Promises to Executive**. Executive acknowledges that no statements or promises have been made to Executive and Executive has not relied upon any statements or promises as an inducement to accept employment or sign this Agreement, except those statements contained herein.

36. **Withholding; Taxes**. The Company may deduct and withhold from any amounts payable under this Agreement such Federal, state, local, non-U.S. or other taxes as are required or permitted to be withheld pursuant to any applicable law or regulation. Executive shall be responsible for all taxes (including self-employment taxes, if applicable) in connection with his status as a member of the Company for U.S. federal income tax purposes.

[*Remainder of this page intentionally left blank; signature page follows*.]



IN WITNESS WHEREOF, the parties have executed this Employment Agreement as of the day and year first written above.

PHCC OP, LP

By: _____
Name:
Title:

EXECUTIVE

By: _____
Name:
Title:

**Exhibit 10.14**

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**
**2021 EQUITY INCENTIVE PLAN**

**FORM OF RESTRICTED STOCK UNIT GRANT AND AGREEMENT**

This RESTRICTED STOCK UNIT GRANT AND AGREEMENT (this "**Agreement**"), is made effective on [***insert date of grant***] (the "**Date of Grant**") by and between Preston Hollow Community Capital, Inc, a Maryland corporation (together with its successors and assigns, the "**Company**") and the participant ("**Participant**") identified on the signature page attached hereto (the "**Signature Page**").

**R E C I T A L S**:

WHEREAS, the Company has adopted the Preston Hollow Community Capital, Inc. 2021 Equity Incentive Plan (as it may be amended, the "**Plan**"), the terms of which Plan are incorporated herein by reference and made a part of this Agreement, and capitalized terms not otherwise defined herein shall have the same meaning as in the Plan; and

WHEREAS, the Committee has determined that it would be in the best interests of the Company and its stockholders to grant the Restricted Stock Units provided for herein to Participant pursuant to the Plan and the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Grant of Restricted Stock Units**.

(a) **Grant**. The Company hereby grants to Participant on the Date of Grant, on the terms and conditions hereinafter set forth in this Agreement, [●] Restricted Stock Units (the "**RSU Award**"), subject to adjustment as set forth in the Plan and this Agreement.

(b) **Vesting**. Subject to Participant's continued service with the Company Group through the applicable vesting date, the RSU Award shall vest and become exercisable with respect to [●] percent ([●]%) of the Restricted Stock Units on each anniversary of the Grant Date. Upon a Termination for any reason, all unvested Restricted Stock Units shall be forfeited for no consideration. Any Restricted Stock Unit which has become vested in accordance with the foregoing shall be referred to as a "**Vested Restricted Stock Unit**", and any Restricted Stock Unit which is not a Vested Restricted Stock Unit, shall be referred to as an "**Unvested Restricted Stock Unit**".

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(c) **Settlement of Restricted Stock Units**.

(i) Vested Restricted Stock Units shall be settled as soon as reasonably practicable following the vesting of such Vested Restricted Stock Units (and, in any event, no later than the date which is two and one-half (2½) months following the end of the calendar year in which the Vested Restricted Stock Units vested).

(ii) Upon the settlement of a Vested Restricted Stock Unit, the Company shall pay to Participant an amount equal to one share of Common Stock. As determined by the Committee, the Company shall pay such amount in (x) cash, (y) shares of Common Stock or (z) any combination thereof. Any fractional shares of Common Stock may be settled in cash, at the Committee's election.

(iii) Notwithstanding anything in this Agreement to the contrary, the Company shall not have any obligation to issue or transfer any shares of Common Stock as contemplated by this Agreement unless and until such issuance or transfer complies with all relevant provisions of law. As a condition to the settlement of any portion of the RSU Award evidenced by this Agreement, Participant may be required to deliver certain documentation to the Company.

2. **Repayment of Proceeds; Clawback**. The RSU Award and all proceeds related to the RSU Award are subject to the clawback and repayment terms set forth in Sections 15(v) and 15(w) of the Plan and the Company's clawback policy, as in effect from time to time, to the extent Participant is a director or officer. If Participant's service with the Company Group is terminated by the Company for Cause or the Company Group discovers after Participant's Termination that grounds for a Termination for Cause existed at the time thereof, then Participant shall be required to pay to the Company, within ten (10) business days following the Company's request to Participant therefor, an amount equal to the aggregate after-tax proceeds (taking into account all amounts of tax that would be recoverable upon a claim of loss for payment of such proceeds in the year of repayment) Participant received either in cash in respect of the settlement of Restricted Stock Units, or upon the sale or other disposition of, or dividends or distributions in respect of, Common Stock acquired upon the settlement of the RSU Award. Any reference in this Agreement to grounds existing for a Termination for Cause shall be determined without regard to any notice period, cure period or other procedural delay or event required prior to finding of, or Termination for, Cause. The foregoing remedy shall not be exclusive.

3. **Legend**. To the extent applicable, all book entries (or certificates, if any) representing the shares of Common Stock delivered to Participant as contemplated by Section 1(c) above shall be subject to the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such shares of Common Stock are listed, and any applicable Federal or state laws, and the Company may cause notations to be made next to the book entries (or a legend or legends put on certificates, if any) to make appropriate reference to such restrictions. Any such book entry notations (or legends on certificates, if any) shall include a description to the effect of any restrictions.

4. **No Right to Continued Engagement**. Neither the Plan nor this Agreement nor Participant's receipt of the Restricted Stock Units hereunder shall impose any obligation on the Company Group to continue the engagement of Participant. Further, the Company Group may at any time terminate the engagement of Participant, free from any liability or claim under the Plan or this Agreement, except as otherwise expressly provided herein.



5. **Restrictions on Transfer; Lock-up**. Participant may not assign, alienate, pledge, attach, sell or otherwise transfer or encumber the RSU Award, other than to Permitted Transferees as may be permitted by the Committee from time to time in accordance with applicable laws and Section 15(b) of the Plan. Except as otherwise provided herein, no assignment or transfer of the RSU Award, or of the rights represented thereby, whether voluntary or involuntary, by operation of law or otherwise, shall vest in the assignee or transferee any interest or right herein whatsoever, but immediately upon such assignment or transfer the RSU Award shall terminate and become of no further effect.

6. **Withholding**. Participant may be required to pay to the Company or any Affiliate and the Company shall have the right and is hereby authorized to withhold, any applicable withholding taxes in respect of the Restricted Stock Units, their grant or vesting or any payment or transfer with respect to the Restricted Stock Units at the minimum applicable statutory rates, and to take such action as may be necessary in the opinion of the Committee to satisfy all obligations for the payment of such withholding taxes. Committee may (but is not obligated to), in its sole discretion, permit or require a Participant to satisfy, all or any portion of the minimum income, employment and/or other applicable taxes that are statutorily required to be withheld by (A) the delivery of shares of Common Stock; or (B) having the Company withhold from the shares of Common Stock otherwise issuable or deliverable to, or that would otherwise be retained by, the Participant shares of Common Stock with an aggregate Fair Market Value equal to an amount not in excess of such minimum statutorily required withholding liability (or portion thereof).

7. **Securities Laws; Cooperation**. Upon the vesting of any Unvested Restricted Stock Units, Participant will make or enter into such written representations, warranties and agreements as the Committee may reasonably request in order to comply with applicable securities laws, the Plan or this Agreement. Participant further agrees to cooperate with the Company in taking any action reasonably necessary or advisable to consummate the transactions contemplated by this Agreement.

8. **Notices**. Any notice necessary under this Agreement shall be addressed to the Company in care of its Corporate Secretary at the principal executive office of the Company and to Participant at the address appearing in the personnel records of the Company for such Participant or to either party at such other address as either party hereto may hereafter designate in writing to the other. Any such notice shall be deemed effective upon receipt thereof by the addressee.

9. **Choice of Law; Jurisdiction; Venue**. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maryland applicable to contracts made and performed wholly within the State of Maryland, without

giving effect to the conflict of laws provisions thereof. Any suit, action or proceeding with respect to this Agreement (or any provision incorporated by reference), or any judgment entered by any court in respect of any thereof, shall be brought in any court of competent jurisdiction in the State of Maryland or the State of Texas, and each of Participant, the Company, and any Permitted Transferees who hold Restricted Stock Units pursuant to a valid assignment, hereby submits to the exclusive jurisdiction of such courts for the purpose of any such suit, action, proceeding, or judgment. Each of Participant, the Company, and any Permitted Transferees who hold Restricted Stock Units pursuant to a valid assignment hereby irrevocably waives (a) any objections which it may now or hereafter have to the laying of the venue of any suit, action, or proceeding arising out of or relating to this Agreement brought in any court of competent jurisdiction in the State of Maryland or the State of Texas, (b) any claim that any such suit, action, or proceeding brought in any such court has been brought in any inconvenient forum and (c) any right to a jury trial.



10. **RSU Award Subject to Plan; Amendment**. By entering into this Agreement, Participant agrees and acknowledges that Participant has received and read a copy of the Plan. The Restricted Stock Units granted hereunder are subject to the Plan. The terms and provisions of the Plan, as it may be amended from time to time, are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail. The Committee may waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate this Agreement, but no such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination shall materially adversely affect the rights of Participant hereunder without the consent of Participant.

11. **Section 409A**. It is intended that the Restricted Stock Units granted hereunder shall be exempt from Section 409A of the Code pursuant to the "short-term deferral" rule applicable to such section, as set forth in the regulations or other guidance published by the Internal Revenue Service thereunder.

[*Signature Page Follows*]



IN WITNESS WHEREOF, this Agreement has been executed and delivered by the parties hereto as of the Date of Grant.

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**

By: _____
Name:
Title:

Date of Grant: [_____]

Number of Restricted Stock Units Granted: [_____]

Grant Date: [_____]

Acknowledged and Agreed
as of the date first written above:

_____
Participant Signature

Signature Page
RSU Agreement

**EXHIBIT 10.15**

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**

**FORM OF RESTRICTED STOCK GRANT AND AGREEMENT**

This RESTRICTED STOCK GRANT AND AGREEMENT (this "**Agreement**"), is made effective as of the date set forth on the Company signature page (the "**Signature Page**") attached hereto, by and between Preston Hollow Community Capital, Inc., a Maryland corporation (together with its successors and assigns, the "**Company**") and the participant identified on the Signature Page ("**Participant**").

**R E C I T A L S:**

WHEREAS, the Company has adopted the Preston Hollow Community Capital, Inc. 2021 Equity Incentive Plan (as it may be amended, the "**Plan**"), the terms of which Plan are incorporated herein by reference and made a part of this Agreement, and capitalized terms not otherwise defined herein shall have the same meaning as in the Plan; and

WHEREAS, the Committee has determined that it would be in the best interests of the Company and its stockholders to grant the Restricted Stock provided for herein to Participant pursuant to the Plan and the terms set forth herein.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **The Shares**.

(a) Subject to the terms and conditions of the Plan and the additional terms and conditions set forth in this Agreement, the Company has granted [●] shares of Common Stock ("**Shares**") to the Participant on [***insert date of grant***] (the "**Grant Date**"), subject to adjustment as set forth in the Plan and this Agreement. Subject to the continued service of the Participant through each applicable vesting date, thirty-three and one-third percent (33⅓%) of the Shares granted hereunder shall become vested and nonforfeitable on each anniversary of the Grant Date (the "**Vested Shares**"). The Shares of granted hereunder that have not become Vested Shares are the "**Unvested Restricted Shares.**" The Vested Shares and Unvested Restricted Shares are collectively, the "**Restricted Shares**".

(b) The Vested Shares shall not be subject to any forfeiture restrictions. The Unvested Restricted Shares shall vest and become nonforfeitable Vested Shares in accordance with paragraph 1(a) above.

(c) If Participant's employment or service with the Company Group is terminated at any time, all Unvested Restricted Shares shall automatically and immediately be forfeited and canceled without consideration.

(d) Participant may timely (within thirty (30) days following the Grant Date) file (via certified mail, return receipt requested) an election under Section 83(b) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder using the form of Exhibit A attached hereto. If the Participant makes such an election, the Participant shall certify to the Company that Participant has made such timely filing and furnish a copy of such filing to the Company. Participant should consult Participant's tax advisor regarding the consequences of a Section 83(b) election, as well as the receipt, vesting, holding and sale of the Restricted Shares.

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(e) Participant acknowledges that the Shares have not been registered under the Securities Act of 1933, as amended (the "**Securities Act**"), and accordingly, may not be sold or transferred except pursuant to an effective registration statement under the Securities Act or pursuant to an applicable exemption therefrom.

2. **Restrictive Covenants**.

(a) **Restrictive Covenants**. Participant agrees that, unless Participant has previously executed a confidentiality, non-interference and invention assignment agreement, Participant is required, as a condition to the grant of the Shares, to execute and return to the Company a copy of a confidentiality, non-interference and invention assignment agreement prepared by

Company. Any restrictive covenants contained in confidentiality, non-interference and invention assignment agreements are referred to in this Agreement as the "**Restrictive Covenants**". Participant acknowledges and agrees that the Company's remedies at law for a breach or threatened breach of any of the Restrictive Covenants would be inadequate and the Company would suffer irreparable damages as a result of such breach or threatened breach. In recognition of this fact, Participant agrees that, in the event of such a breach or threatened breach, in addition to any remedies at law, the Company, without posting any bond, shall be entitled to cease making any payments or providing any benefit otherwise required by this Agreement and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction or any other equitable remedy which may then be available. For the avoidance of doubt, the restrictive covenants contained in confidentiality, non-interference and invention assignment agreements prepared by Company are in addition to, and not in lieu of, any other restrictive covenants or similar covenants or agreements between Participant and the Company Group. For purposes of this Agreement, "**Restrictive Covenant Violation**" shall include Participant's breach of any of the Restrictive Covenants or any similar provision applicable to Participant.

(b) **Repayment of Proceeds**. If a Restrictive Covenant Violation occurs or the Company discovers after Participant's Termination that grounds existed for Cause at the time thereof, then Participant shall be required, in addition to any other remedy available (on a non-exclusive basis), to pay to the Company, within ten (10) business days' of the Company's request to Participant therefor, an amount equal to the excess, if any, of (i) the aggregate after-tax proceeds (taking into account all amounts of tax that would be recoverable upon a claim of loss for payment of such proceeds in the year of repayment) Participant received upon the sale or other disposition of, or distributions in respect of, (A) prior to the Exchange Date, the Units, and (B) the Shares issued to Participant on the Exchange Date over (ii) the aggregate Cost of such Shares. For purposes of this Agreement, "**Cost**" means, in respect of any Share, the amount paid by Participant for the Units that were exchanged for such Share, as proportionately adjusted for all subsequent distributions on the Shares and other recapitalizations and less the amount of any distributions made with respect to (x) prior to the Exchange Date, the Unit or (y) the Share pursuant to the Company's organizational documents; **provided**, **that** Cost may not be less than zero (0). Any reference in this Agreement to grounds existing for a Termination for Cause shall be determined without regard to any notice period, cure period, or other procedural delay or event required prior to a finding of or Termination for Cause.



3. **Book Entry; Certificates**. The Company shall recognize Participant's ownership of Restricted Shares through uncertificated book entry. If elected by the Company, certificates evidencing the Restricted Shares may be issued by the Company and any such certificates shall be registered in Participant's name on the stock transfer books of the Company promptly after the date hereof, but shall remain in the physical custody of the Company or its designee at all times prior to the later of (x) the vesting of Unvested Restricted Shares pursuant to this Agreement and (y) the expiration of any transfer restrictions set forth in this Agreement or otherwise applicable to the Restricted Shares. As soon as practicable following such time, any certificates for the Shares shall be delivered to Participant or to Participant's legal guardian or representative along with the stock powers relating thereto. However, the Company shall not be liable to Participant for damages relating to any delays in issuing the certificates (if any) to Participant, any loss by Participant of the certificates, or any mistakes or errors in the issuance of the certificates or in the certificates themselves.

4. **Rights as a Stockholder**. Participant shall be the record owner of the Restricted Shares until or unless such Restricted Shares are forfeited pursuant to the terms of this Agreement, and as record owner shall be entitled to all rights of a common stockholder of the Company, including, without limitation, voting rights with respect to the Restricted Shares and rights to dividends or other distributions; **provided**, **that** the Shares shall be subject to the limitations on transfer and encumbrance set forth in Section 7.

5. **Legend**. To the extent applicable, all book entries (or certificates, if any) representing the Restricted Shares delivered to Participant as contemplated by Section 3 above shall be subject to the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such Shares are listed, and any applicable Federal or state laws, and the Company may cause notations to be made next to the book entries (or a legend or legends put on certificates, if any) to make appropriate reference to such restrictions. Any such book entry notations (or legends on certificates, if any) shall include a description to the effect of the restrictions set forth in Sections 1 and 7 hereof.

6. **No Right to Continued Employment or Engagement**. Neither the Plan nor this Agreement nor Participant's receipt of the Shares hereunder shall impose any obligation on the Company Group to continue the employment or engagement of Participant. Further, the Company Group may at any time terminate the employment or engagement of such Participant, free from any liability or claim under the Plan or this Agreement, except as otherwise expressly provided herein.

7. **Assignment Restrictions**.

(a) The Unvested Restricted Shares may not, at any time prior to becoming vested pursuant to the terms of this Agreement, be Assigned, and any such purported Assignment shall be void and unenforceable against the Company or any Affiliate; **provided**, **that** the designation of a beneficiary shall not constitute an Assignment.



(b) "**Assign**" or "**Assignment**" shall mean (in either the noun or the verb form, including with respect to the verb form, all conjugations thereof within their correlative meanings) with respect to any security, the gift, sale, assignment, transfer, pledge, hypothecation or other disposition (whether for or without consideration, whether directly or indirectly, and whether voluntary, involuntary or by operation of law) of such security or any interest therein.

8. **Withholding**. Participant may be required to pay to the Company or any Affiliate and the Company shall have the right and is hereby authorized to withhold, any applicable withholding taxes in respect of the Restricted Shares, their grant or vesting or any payment or transfer with respect to the Restricted Shares at the minimum applicable statutory rates, and to take such action as may be necessary in the opinion of the Committee to satisfy all obligations for the payment of such withholding taxes. The Committee may (but is not obligated to), in its sole discretion, permit or require a Participant to satisfy, all or any portion of the minimum income, employment and/or other applicable taxes that are statutorily required to be withheld by (A) the delivery of shares of Common Stock; or (B) having the Company withhold from the shares of Common Stock otherwise issuable or deliverable to, or that would otherwise be retained by, the Participant shares of Common Stock with an aggregate Fair Market Value equal to an amount not in excess of such minimum statutorily required withholding liability (or portion thereof).

9. **Securities Laws; Cooperation**. Upon the vesting of any Unvested Restricted Shares, Participant will make or enter into such written representations, warranties and agreements as the Committee may reasonably request in order to comply with applicable securities laws, the Plan or with this Agreement. Participant further agrees to cooperate with the Company in taking any action reasonably necessary or advisable to consummate the transactions contemplated by this Agreement.

10. **Notices**. Any notice necessary under this Agreement shall be addressed to the Company in care of its Corporate Secretary at the principal executive office of the Company and to Participant at the address appearing in the personnel records of the Company for such Participant or to either party at such other address as either party hereto may hereafter designate in writing to the other. Any such notice shall be deemed effective upon receipt thereof by the addressee.

11. **Choice of Law; Jurisdiction; Venue**. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maryland applicable to contracts made and performed wholly within the State of Maryland, without giving effect to the conflict of laws provisions thereof. Any suit, action or proceeding with respect to this Agreement (or any provision incorporated by reference), or any judgment entered by any court in respect of any thereof, shall be brought in any court of competent jurisdiction in the State of Maryland or the State of Texas, and each of Participant, the Company, and any Permitted Transferees who hold Shares pursuant to a valid Assignment, hereby submits to the exclusive jurisdiction of such courts for the purpose of any such suit, action, proceeding, or judgment. Each of Participant, the Company, and any Permitted Transferees who hold Shares pursuant to a valid Assignment hereby irrevocably waives (a) any objections which it may now or hereafter have to the laying of the venue of any suit, action, or proceeding arising out of or relating to this Agreement brought in any court of competent jurisdiction in the State of Maryland or the State of Texas, (b) any claim that any such suit, action, or proceeding brought in any such court has been brought in any inconvenient forum and (c) any right to a jury trial.



12. **Shares Subject to Plan; Amendment**. By entering into this Agreement, Participant agrees and acknowledges that Participant has received and read a copy of the Plan. The Shares granted hereunder are subject to the Plan. The terms and provisions of the Plan, as it may be amended from time to time, are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail. The Committee may waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate this

Agreement, but no such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination shall materially adversely affect the rights of Participant hereunder without the consent of Participant.

[*Signature Pages Follow*]



IN WITNESS WHEREOF, Participant acknowledges and accepts the terms of this Agreement which shall be effective as of the date set forth below and countersignature by the Company.

PARTICIPANT

By: _____
Name:
Title:

Dated: _____

Date of Grant: [_____]

Number of Restricted Shares Granted: [_____]

Grant Date: [_____]

Participant Signature Page
Restricted Stock Grant and Agreement

Acknowledged and confirmed:

**PRESTON HOLLOW COMMUNITY CAPITAL, INC**.

By: _____
Name:
Title:

Company Signature Page
Restricted Stock Grant and Agreement

**EXHIBIT A**

**ELECTION TO INCLUDE SHARES IN GROSS INCOME PURSUANT TO SECTION 83(b) OF THE INTERNAL REVENUE CODE**

The undersigned acquired shares of common stock (the "**Shares**") of PRESTON HOLLOW COMMUNITY CAPITAL, INC. (the "**Company**") on [_____] (the "**Transfer Date**").

The undersigned desires to make an election to have the Shares taxed under the provision of Section 83(b) of the Internal Revenue Code of 1986, as amended ("**Code §83(b)**"), at the time the undersigned acquired the Shares.

Therefore, pursuant to Code §83(b) and Treasury Regulation §1.83-2 promulgated thereunder, the undersigned hereby makes an election, with respect to the Shares (described below), to report as taxable income for calendar year 2020 the excess, if any, of the Shares' fair market value on the Transfer Date over the acquisition price thereof.

The following information is supplied in accordance with Treasury Regulation §1.83-2(e):

1. The name, address and social security number of the undersigned:

Name: _____

Address: _____

_____

SSN: _____-_____-_____

2. A description of the property with respect to which the election is being made: [_____] Shares.

3. The date on which the property was transferred: the Transfer Date. The taxable year for which such election is made: calendar year 2020.

4. The restrictions to which the property is subject: The Shares are subject to time based vesting conditions. If the undersigned ceases to be employed by any of the Company or an affiliate under certain circumstances, all or a portion of the Shares may be subject to forfeiture. The Shares are also subject to transfer restrictions.

5. The aggregate fair market value on the Transfer Date of the property with respect to which the election is being made, determined without regard to any lapse restrictions: $[_____].

6. The aggregate amount paid for such property: $[_____].



7. Copies of this statement have been furnished to the person for whom the services are to be performed and the service recipient.

Dated: _____ __, 20____

By: _____
Name:
Title:

**Exhibit 10.16**

**THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933**.

**PHCC OP, L.P.**

**Form of LTIP Unit Award Agreement**

1. **Grant of LTIP Units**. [●] (the "**Grantee**"), is hereby awarded [●] LTIP Units (the "**LTIP Units**") in PHCC OP, L.P. (the "**Partnership**"), on [***insert grant date***] (the "**Grant Date**") subject to the terms and conditions of this LTIP Unit Award Agreement (this "**Agreement**") and subject to the provisions of the Preston Hollow Community Capital, Inc. 2021 Equity Incentive Plan (the "**Plan**") and the First Amended and Restated Limited Partnership Agreement of the Partnership, dated as of [●] (the "**Partnership Agreement**"), as amended. The Plan is hereby incorporated herein by reference as though set forth herein in its entirety. Definitions not included herein shall have the meaning set forth in the Plan and Partnership Agreement, as applicable.

2. **Restrictions and Conditions**. The LTIP Units are subject to the following restrictions and conditions, in addition to any requirements or restrictions set forth with respect to LTIP Units in the Plan or Partnership Agreement:

(a) The LTIP Units granted hereunder shall be subject to restrictions as described below. With respect to the LTIP Units, during the period of restriction (the "**Restriction Period**"), the Grantee shall not be permitted voluntarily or involuntarily to sell, transfer, pledge, anticipate, alienate, encumber or assign the LTIP Units (or have such LTIP Units attached or garnished). The Restriction Period shall begin on the Grant Date. Subject to the continued service of the Participant through each applicable vesting date, thirty-three and one-third percent (33⅓%) of the LTIP Units granted hereunder shall become vested and nonforfeitable on each anniversary of the Grant Date (the "**Vested LTIP Units**"). LTIP Units that have not become Vested LTIP Units are "**Restricted LTIP Units.**"

(b) Except as provided in the foregoing paragraph (a), below in this paragraph (b) or in the Plan, the Grantee shall have, in respect of the LTIP Units, all of the rights of a holder of LTIP Units as set forth in the Partnership Agreement. Distributions on and allocations with respect to the LTIP Units shall be made to the Grantee in accordance with the terms of the Partnership Agreement.

(c) Subject to paragraphs (d) and (e) below, if the Grantee has a Termination for any reason, during the Restriction Period, then the Restricted LTIP Units that have not vested at that time will be forfeited to the Partnership without payment of any consideration by the Partnership, and neither the Grantee nor his successors, heirs, assigns, or personal representatives will thereafter have any further rights or interests in such Restricted LTIP Units.

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(d) In the event that during the Restriction Period the Grantee has a Termination on account of death or Disability, then the Restriction Period will immediately lapse on all unvested LTIP Units granted to the Grantee and not forfeited previously.

(e) For purposes of this Agreement, a Termination shall occur when the employee-employer relationship or directorship, or other service relationship, between the Grantee and a Service Recipient is terminated for any reason, including, but not limited to, any termination by resignation, discharge, death or retirement. The Committee, in its absolute discretion, shall determine the effects of all matters and questions relating to Terminations. For this purpose, the service relationship shall be treated as continuing intact while the Grantee is on sick leave or other bona fide leave of absence (to be determined in the discretion of the Committee).

3. **Certain Terms of LTIP Units**.

(a) The Partnership may, but is not obligated to, issue to the Grantee (or its assignee or transferee, as applicable) a certificate in respect of the LTIP Units or may indicate such Grantee's ownership of LTIP Units on the Partnership's books and records.

Such certificate, if any, shall be registered in the name of the Grantee (or such assignee or transferee). The certificates for LTIP Units issued hereunder may include any legend which the Committee deems appropriate to reflect any restrictions on transfer hereunder, or pursuant to any assignment or transfer by the Grantee, or as the Committee may otherwise deem appropriate, and, without limiting the generality of the foregoing, shall bear a legend referring to the terms, conditions, and restrictions applicable to such LTIP Units, substantially in the following form:

> **THE TRANSFERABILITY OF THIS CERTIFICATE AND THE LTIP UNITS REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE FIRST AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF PHCC OP, LP, THE PRESTON HOLLOW COMMUNITY CAPITAL, INC. 2021 EQUITY INCENTIVE PLAN AND AN AWARD AGREEMENT APPLICABLE TO THE GRANT OF THE LTIP UNITS REPRESENTED BY THIS CERTIFICATE. COPIES OF SUCH PLAN, PARTNERSHIP AGREEMENT AND AWARD ARE ON FILE IN THE OFFICES OF PHCC OP, LP.**

(b) Certificates, if any, evidencing the Restricted LTIP Units granted hereby shall be held in custody by the Partnership until the restrictions have lapsed. If and when such restrictions so lapse, the certificates shall be delivered by the Partnership to the Grantee.

(c) So long as the Grantee holds any LTIP Units, the Grantee shall disclose to the Partnership in writing such information as may be reasonably requested with respect to ownership of LTIP Units and any conditions applicable thereto, as the Partnership, as applicable, may deem reasonably necessary, including in order to ascertain and establish compliance with provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), applicable to the Partnership or to comply with requirements of any other appropriate taxing or other regulatory authority.



4. **Call Option upon Termination of Service**.

(a) If the Grantee has a Termination of Service, the Partnership shall have the right for 90 days following the date of Termination of Service , to purchase (the "**Call Option**"), and the Grantee and any Permitted Transferee controlled by the Grantee holding any (but not all) LTIP Units described hereunder (collectively, the "**Grantee's Group**") shall be required to sell to the Partnership, such LTIP Units then held by such member of Grantee's Group at a price per LTIP Unit equal to the Fair Market Value (measured as of the date that the Call Option is delivered (the "**Repurchase Notice Date**")).

(b) To effect the exercise of the Call Option, the Partnership shall send written notice to each member of Grantee's Group of its intention to purchase LTIP Units (the "**Call Notice**"), which notice shall state that the Partnership intends to exercise its Call Option pursuant to this Agreement and include the number of LTIP Units to be purchased pursuant to the Call Option, the aggregate purchase price of the LTIP Units subject to the Call Option and the date of closing of such transaction. The purchase price for the LTIP Units will be paid in cash, by cashier's check or by wire transfer of funds; **provided**, **however**, **that** if the Partnership exercises the Call Option at a time that applicable financing documents of the Partnership would prohibit the purchase of LTIP Units, the Partnership shall be permitted to issue a promissory note equal to the aggregate purchase price, with such promissory note having a maturity date that does not exceed two (2) years from the date of the closing of such purchase, bearing simple interest of not less than the Prime Rate in effect on the date of such purchase plus 3%, and being payable as to interest in equal monthly installments during the term of the note and as to principal on the maturity date. The Grantee's Group will cause the LTIP Units to be delivered to the Partnership at the closing free and clear of all liens, claims, charges or encumbrances of any kind.

(c) The rights set forth in this Section 4 shall terminate upon the occurrence of a Realization Transaction.

5. **Compliance with Securities Laws**. The Grantee acknowledges that the LTIP Units have not been registered under the Securities Act or under any state securities or "blue sky" law or regulation (collectively, "**Securities Laws**") and hereby makes the following representations and covenants as a condition to the grant of LTIP Units:

(a) The Grantee has not taken, and covenants that it will not take, himself or herself or through any agent acting on his behalf, any action that would subject the issuance or sale of the LTIP Units to the registration provisions of the Securities Act or to the

registration, qualification or other similar provisions of any Securities Laws, or breach any of the provisions of any Securities Laws, but, rather, that the Grantee shall at all times act with regard to the LTIP Units in full compliance with all Securities Laws;

(b) The Grantee has acquired and, to the extent applicable, is acquiring the LTIP Units for his or her own account for investment and with no present intention of distributing the LTIP Units or any part thereof;

(c) The Grantee is and shall be an "accredited investor" as defined in Section 2(15) and Rule 501(a) of Regulation D of the Securities Act;



(d) The Grantee is capable of evaluating the merits and risks of the acquisition and ownership of the LTIP Units and has obtained all information regarding the Partnership (and its applicable affiliates) and the LTIP Units as the Grantee deems appropriate, and has relied solely upon such information, and the Grantee's own knowledge, experience and investigation, and those of his advisors, and not upon any representations of the Partnership and/or the General Partner, in connection with his investment decision in acquiring the LTIP Units; and

(e) The Grantee and his or her professional advisors have had an opportunity to conduct, and have so conducted if so desired, a due diligence investigation of the Partnership in connection with the decision to acquire the LTIP Units and in such regard have done all things as the Grantee and they have deemed appropriate and have had an opportunity to ask questions of and receive answers from the Partnership and the General Partner, and have done so, as they have deemed appropriate.

6. **Miscellaneous**.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO ANY PRINCIPLES OF CONFLICTS OF LAW WHICH COULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE.

(b) Except as set forth in the Partnership Agreement, the Grantee shall not have the right to transfer all or any portion of the LTIP Units without the prior written consent of the General Partner (in its sole discretion); **provided**, **however**, **that** in no event shall any LTIP Units be transferred within two years following the Grant Date. Any transfer in violation of this Agreement or the Partnership Agreement, or which does not otherwise comply with the conditions of transfer imposed by the General Partner shall be void.

(c) Within 30 days after the date hereof, the Grantee shall file with the Internal Revenue Service an election under Section 83(b) of the Code on a form substantially similar to the form attached hereto as Annex A and reasonably satisfactory to the Partnership (and will include a copy thereof with the applicable tax return). The Grantee shall be solely responsible for the filing of such election and all related filings.

(d) The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified except by a written agreement executed by the parties hereto or their respective successors and legal representatives. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(e) The General Partner may make such rules and regulations and establish such procedures for the administration of this Agreement as it deems appropriate. Without limiting the generality of the foregoing, the General Partner may interpret the Plan and this Agreement, with such interpretations to be conclusive and binding on all persons and otherwise accorded the maximum deference permitted by law. In the event of any dispute or disagreement as to interpretation of the Plan or this Agreement or of any rule, regulation or procedure, or as to any question, right or obligation arising from or related to the Plan or this Agreement, the decision of the General Partner shall be final and binding upon all persons.

(f) All notices hereunder shall be in writing, and if to the Partnership or the General Partner, shall be delivered to the Partnership or mailed to its principal office, addressed to the attention of the General Partner; and if to the Grantee, shall be delivered personally, sent by facsimile transmission or mailed to the Grantee at the address appearing in the records of the Partnership. Such addresses may be changed at any time by written notice to the other party given in accordance with this paragraph 6(f).

(g) The failure of the Grantee or the Partnership to insist upon strict compliance with any provision of this Agreement or the Plan, or to assert any right the Grantee or the Partnership, respectively, may have under this Agreement or the Plan, shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement or the Plan.

(h) Nothing in this Agreement shall confer on the Grantee any right to continue in the employ or other service of the Partnership or interfere in any way with the right of the Partnership or its affiliates to terminate the Grantee's employment or other service at any time.

(i) This Agreement, together with the Plan and Partnership Agreement, contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto.

[*Signature Page Follows*]



IN WITNESS WHEREOF, the Company and the Grantee have executed this Agreement as of the [●] day of [●], 201[●].

**PHCC OP, LP**

By: _____
Name:
Title:

[●]

By: _____
Name:
Title:

Date of Grant: [_____]

Number of LTIP Units Granted: [_____]

Grant Date: [_____]

Signature Page
LTIP Unit Award Agreement

**ANNEX A**

[●], 201[●]

CERTIFIED MAIL RETURN

RECEIPT REQUESTED

Re: Section 83(b) Election

Dear Sir or Madam:

Pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the Treasury Regulations promulgated thereunder, the undersigned (the "**Taxpayer**") files the following statement for the purpose of making, with respect to the property described below, the election permitted by Section 83(b):

1. Name, address, taxpayer identification number and the taxable year of the Taxpayer:

Name: _____
Address: _____

T.I.N.: _____
Taxable Year: _____

2. Description of the property with respect to which this election is being made:

[●] units ("**LTIP Units**") of interest in certain allocations and distributions of PHCC OP, LP, a Delaware limited partnership (the "**Partnership**").

3. The date on which the property was acquired by the Taxpayer and the taxable year for which the election is being made:

The Taxpayer acquired the LTIP Units on [●], 201[●]. The taxable year for which the election is made is the calendar year 201[●].

4. The nature of the restrictions to which the property is subject:

The LTIP Units are subject to time-based vesting. The unvested LTIP Units are subject to forfeiture in the event of certain terminations of the Taxpayer's service with the Partnership.

5. The fair market value at the time of the acquisition (determined without regard to any restriction other than a restriction which by its terms will never lapse) of the property with respect to which the election is being made:

At the time of the acquisition, the LTIP Units had a fair market value of $[●] per unit.

6. The amount paid for such property:

The LTIP Units were acquired for a purchase price of $[●] per unit.

7. Copies of this statement have been furnished to the Partnership and to the person for whom the services are to be performed.

Very truly yours,

_____

**Exhibit 10.17**

**FORM OF CONTRIBUTION AGREEMENT**

**by and among**

**PHCC OP LP;**

**PRESTON HOLLOW CAPITAL, LLC;**

**and solely for purposes of Sections 2.1(f), 4.3 and 7.3**

**PRESTON HOLLOW COMMUNITY CAPITAL, INC.**

July [●], 2021

---

**THIS CONTRIBUTION AGREEMENT** (this "Agreement") is dated as of this ____ day of July, 2021 (the "Effective Date"), by and among the following parties:

1. Preston Hollow Capital, LLC, a Delaware limited liability company (the "Contributor");

2. PHCC OP LP, a Delaware limited partnership (the "Operating Partnership"); and

3. solely for purposes of Sections 2.1(f), 4.3 and 7.3, Preston Hollow Community Capital, Inc. (the "Corporation").

**RECITALS**

(A) The Corporation intends to conduct an initial public offering (the "IPO") of its shares of Class A common stock, par value $0.01 per share ("Class A Common Stock").

(B) In connection with the IPO, the Corporation and the Operating Partnership desire to engage in a series of transactions through which the Corporation and the Operating Partnership will consolidate their ownership of an initial portfolio of assets.

(C) The Contributor currently (i) beneficially and legally owns (x) 100% the limited liability company interests in each of the entities listed in Part 1-A of Exhibit A, (y) the portion of the limited liability company interests in the entity listed in Part 1-B of Exhibit A (interests described in clauses (x) and (y), collectively, the "LLC Interests", and the entities listed in Part 1-A and Part 1-B of Exhibit A, the "Existing LLCs"), and (z) 100% of the common stock (the "Shares") in the entity listed in Part 2 of Exhibit A (the "Existing Corporation"), and (ii) owns the subordinated equity in the trusts (the "Trust Interests" and, collectively with the LLC Interests and Shares, the "Contributed Interests") listed in Part 3 of Exhibit A (the "Existing Trusts" and, collectively with the Existing LLCs and Existing Corporation, the "Existing Entities").

(D) The Contributor owns all of the rights and interests in and to the assets listed in Exhibit B attached hereto (collectively, the "Contributed Assets").

(E) The Existing Entities set forth on Exhibit C own certain investments in Qualified Opportunity Zones. The Contributed Interests with respect to such Existing Entities shall be referred to as the "Contributed QOF Interests" and the Contributed Interests that are not Contributed QOF Interests shall be referred to as the "Other Contributed Interests" herein.

(F) On the terms and subject to the conditions of this Agreement, the parties desire that (x) the Contributor contribute the Contributed QOF Interests to the Operating Partnership, and the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) accept all rights and interest in and to the Contributed QOF Interests from the Contributor and, in exchange therefor, that the Operating Partnership issue to the Contributor Class A limited partnership units in the Operating Partnership

("Class A OP Units") and (y) the Contributor contribute the Other Contributed Interests and the Contributed Assets to the Operating Partnership, and the Operating Partnership (or its designee designated in accordance with Section 2.1(f)) accept all rights and interest in and to the Other Contributed Interests and Contributed Assets from the Contributor and, in exchange therefor, that the Operating Partnership issue to the Contributor Class A OP Units and Class B limited partnership units in the Operating Partnership ("Class B OP Units" and, together with the Class A OP Units, "OP Units") and that the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) assume the liabilities of the Contributor set forth on Exhibit D (the "Assumed Liabilities"). The Contributor shall contribute to a wholly-owned subsidiary of the Contributor (the "Contributor Subsidiary") the Class A OP Units issued to it as consideration for its contribution of the Contributed QOF Interests to the Operating Partnership.



(G) Each of the parties hereto acknowledges and agrees that the other parties hereto would not be entering into this Agreement and the First Amended and Restated Agreement of Limited Partnership of the Operating Partnership (the "Partnership Agreement") without the representations, warranties and covenants which are being made and agreed to herein by each party hereto and that such parties are entering into this Agreement in reliance on such representations, warranties and covenants.

**NOW, THEREFORE**, in consideration of mutual promises and other good and valuable consideration, the receipt and sufficiency which are hereby mutually acknowledged, the parties hereto agree as follows:

## Article 1
## Definitions

**1.1. Rules of Application.** The definitions in the recitals and elsewhere in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words "herein," "hereof," "hereunder," and similar terms shall refer to this Agreement, unless the context otherwise requires. The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise: (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented, modified or otherwise changed (subject to any restrictions on such amendments, restatements, supplements, modifications or changes set forth herein); and (b) any reference herein to any person shall be construed to include such person's successors and permitted assigns. All references herein to Articles, Sections, and Exhibits shall be construed to refer to Articles and Sections of, and Exhibits to, this Agreement. The Exhibits attached hereto are hereby incorporated herein and shall be deemed a part of this Agreement. As used herein, the word "or" shall not be exclusive. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1.1.

"Benefit Plan" means any contract, agreement, policy, practice, program, plan, trust, commitment or arrangement providing for benefits, perquisites or compensation of any nature to any employee, or to any family member, dependent, or beneficiary of any such employee, including pension plans, thrift plans, deferred compensation plans, supplemental pension plans and welfare plans, and contracts, agreements, policies, practices, programs, plans, trusts, commitments and arrangements providing for terms of employment, fringe benefits, severance benefits, change in control protections or benefits, travel and accident, life, disability and accident insurance, tuition reimbursement, travel reimbursement, vacation, sick, personal or bereavement days, leaves of absences and holidays of Contributor or Operating Partnership, as applicable.



"Contributor Employee" means any individual who is employed by the Contributor or its affiliates immediately prior to the Closing.

"FMLA" means the U.S. Family and Medical Leave Act of 1993, as amended, and the regulations promulgated thereunder.

"HIPAA" means the U.S. Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder.

"Permitted Liens" means, collectively, (i) with respect to the Contributed Interests, restrictions on transfer under generally applicable securities laws and Liens approved in writing by the Operating Partnership or arising under this Agreement or the Related Agreements and (ii) with respect to the Contributed Assets, (A) Liens approved in writing by the Operating Partnership or arising under this Agreement or any Related Agreement, (B) statutory Liens arising out of operation of law with respect to a liability incurred in the ordinary course of business, (C) Liens and other imperfections to title that do not materially detract from the value or materially impair the use of the property subject thereto or make such property unmarketable or uninsurable, (D) with respect to real property, (1) easements, declarations, covenants, rights-of-way, restrictions and other charges, instruments or encumbrances that are recorded against title to real property, (2) zoning ordinances, variances, conditional use permits and similar regulations, permits, approvals and conditions, (E) Liens for taxes, assessments or other governmental charges or levies that are not yet due or payable, (F) mechanics', materialmen's, carriers', workmen's, repairmen's landlords' or other similar Liens and security obligations, (G) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, and (H) Liens disclosed in Schedule 2.1(a).

"Related Agreements" means, collectively, the Partnership Agreement, the Tax Receivables Agreement (as defined in Section 3.2(e)), the Registration Rights Agreement (as defined Section 3.2(e)), the Contributor Interest Agreement (as defined in Section 3.2(a)), the Assignment and Assumption Agreement (as defined in Section 3.2(b)), the Shared Resources Agreement (as defined Section 3.2(e)), the Trademark Assignment Agreement (as defined in Section 3.2(c)) and each Lease Assignment Agreement (as defined in Section 3.2(e)).

## Article 2
## Contributions, Assumptions of Liabilities and Related Matters

### 2.1. Contributions and Assumption of Liabilities; Exchange of OP Units.

**(a)** On the terms and subject to the conditions of this Agreement, the Contributor shall contribute and transfer the Contributed QOF Interests to the Operating Partnership (or a subsidiary designated in accordance with Section 2.1(g)), in each case free and clear of all liens, mortgages, pledges, hypothecations, security interests, prior assignments or conveyances, restrictions, reservations and encumbrances whatsoever and all other defects or imperfections in title (collectively, "Liens"), other than Permitted Liens.



**(b)** In consideration of such contribution and transfer described in Section 2.1(a), and in reliance on the representations and warranties of the Contributor contained in or made pursuant to the terms of this Agreement, the Operating Partnership shall issue to the Contributor [●] Class A OP Units (the "Contributed QOF Interest Consideration").

**(c)** Following its receipt of the Class A OP Units pursuant to Section 2.1(b), the Contributor shall contribute the Contributed QOF Interest Consideration to the Contributor Subsidiary as a contribution in-kind.

**(d)** Following the transactions described in Sections 2.1(a), 2.1(b) and 2.1(c), on the terms and subject to the conditions of this Agreement, the Contributor shall contribute and transfer the Other Contributed Interests and the Contributed Assets to the Operating Partnership (or a subsidiary designated in accordance with Section 2.1(g)), in each case free and clear of all Liens other than Permitted Liens. For the avoidance of doubt, any and all assets of the Contributor that are not Contributed Assets (the "**Retained Assets**") shall include those assets set forth on Schedule 2.1(d) and Retained Assets shall not be contributed or transferred in any manner or form to the Operating Partnership.

**(e)** In consideration of such contribution and transfer described in Section 2.1(d), and in reliance on the representations and warranties of the Contributor contained in or made pursuant to the terms of this Agreement (i) the Operating Partnership shall issue to the Contributor [●] Class A OP Units and [●] Class B OP Units and (ii) the Operating Partnership (or a subsidiary designated in accordance with Section 2.1(g)) shall assume and agree to pay, discharge, perform or otherwise satisfy, the Assumed Liabilities. No liabilities of the Contributor shall be assumed at the Closing by the Operating Partnership except for the Assumed Liabilities. The Contributor shall retain and pay, discharge, perform or otherwise satisfy, when due, all of its liabilities that are not

Assumed Liabilities. For the avoidance of doubt, any liabilities under or in connection with the Contributor's 2015 Restricted Equity Incentive Plan (as amended) are not Assumed Liabilities.

**(f)** Following the transactions described in Section 2.1(d) and Section 2.1(e), the Contributor shall transfer the Class B OP Units issued to it pursuant to Section 2.1(e) to the Corporation and, as consideration therefor, the Corporation shall issue to the Contributor [●] shares of Class B common stock of the Corporation, par value $0.01 per share ("Class B Common Stock").

**(g)** The Operating Partnership shall have the right to designate a direct or indirect wholly-owned subsidiary of the Operating Partnership to receive all or any portion of the Contributed Interests or the Contributed Assets at the Closing, or to assume all or any portion of the Assumed Liabilities at the Closing, provided that no such designation shall in any way affect or diminish the Operating Partnership's obligations or responsibilities under this Agreement.



**(h)** To the extent that the Contributor's rights under any contracts or other assets constituting a Contributed Asset, or any other Contributed Asset, may not be assigned to the Operating Partnership without the consent of another person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and the Contributor, at its expense, shall use its commercially reasonable efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair the Operating Partnership's rights under such Contributed Asset so that the Operating Partnership would not in effect acquire the benefit of all such rights, the Contributor, to the maximum extent permitted by law and such Contributed Asset, shall act after the Closing as the Operating Partnership's agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by law and such Contributed Asset, with the Operating Partnership in any other reasonable arrangement designed to provide such benefits to the Operating Partnership. Notwithstanding any provision in this Section 2.1(h) to the contrary, the Operating Partnership shall not be deemed to have waived its rights under Section 3.1 hereof unless and until the Operating Partnership either provides written waivers thereof or elects to proceed to consummate the transactions contemplated by this Agreement at Closing.

**2.2. Closing Date.** Unless this Agreement is sooner terminated or extended pursuant to its terms, or unless otherwise agreed to in writing by the Contributor and the Operating Partnership, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place concurrently with the closing of the IPO or on such date as the Contributor and the Operating Partnership may otherwise agree in writing (the "Closing Date").

**2.3. Termination.** Notwithstanding anything to the contrary contained herein or in any Related Agreement, this Agreement may be terminated at any time prior to the Closing by the written mutual consent of all of the parties hereto. Upon a termination of this Agreement pursuant to the provisions of this Section 2.3, Section 6.1, or Section 6.2, this Agreement forthwith shall become void and there shall be no liability or further obligation under or in respect of this Agreement on the part of the Operating Partnership, the Contributor or their affiliates or their respective officers, directors, members, partners or shareholders of any of the foregoing, except to the extent that any right, obligation and/or liability set forth herein expressly survives the termination of this Agreement.

**2.4. Grant of Power of Attorney to General Partner of the Operating Partnership.** By executing this Agreement, the Contributor hereby irrevocably constitutes and appoints PHCC GP, LLC, in its capacity as the general partner of the Operating Partnership (the "General Partner") (or a substitute appointed by the General Partner) as its attorney-in-fact, proxy and agent with full power of substitution on the terms and for the purposes set forth in Section 2.04 of the Partnership Agreement and to take any and all actions and execute and deliver any of the following agreements on the Contributor's behalf and in the Contributor's name: (a) the Partnership Agreement and any amendment to the Partnership Agreement entered into in connection with the transactions contemplated in this Agreement or the Related Agreements (as described herein) (including the power of attorney included in the Partnership Agreement); (b) the Contributor Interest Assignment; and (c) any other Related Agreements on the Contributor's behalf and in the Contributor's name, as may be deemed by the General Partner as necessary or desirable to effectuate the transactions contemplated in this Agreement or the Related Agreements, and the other transactions described herein or therein. The Contributor hereby grants to each attorney-in-fact full power and authority to do and perform each and every act and thing which may be necessary, or convenient, in connection with the foregoing, as fully, to all intents and purposes, as the undersigned might or could do if personally present, hereby ratifying and confirming all that such attorney-in-fact shall lawfully do or cause to be done by authority hereof. Such power-of-attorney shall be deemed to be coupled with an interest and shall be irrevocable and shall survive the dissolution of the Contributor.

**2.5.** **Tax Treatment.** The parties intend that (x) the transactions contemplated by Sections 2.1(a), 2.1(b), 2.1(d), and 2.1(e) shall be treated as a contribution by the Contributor of the Contributed Interests and the Contributed Assets to the Operating Partnership in exchange for OP Units in a transaction qualifying under Section 721 of the Internal Revenue Code of 1986, as in effect from time to time (the "Code"), (y) the transactions contemplated by Section 2.1(c) shall be treated as a contribution by the Contributor of the Contributed QOF Interest Consideration to Contributor Subsidiary in a transaction qualifying under Section 721 of the Code, and (z) the transactions contemplated by Sections 2.1(f) shall be treated as a contribution by the Contributor of Class B OP Units to the Corporation in exchange for Class B Common Stock in a transaction (together with the Corporation's issuance of Class A Common Stock in the IPO) qualifying under Section 351 of the Code. The Contributor and the Operating Partnership hereby agree to the U.S. federal income tax treatment described in this Section 2.5, and neither the Contributor nor the Operating Partnership shall maintain a position on their respective U.S. federal, state or local income Tax Returns that is inconsistent therewith.

**2.6.** **Withholding.** The Operating Partnership shall be entitled to deduct and withhold from any portion of the consideration paid to the Contributor such amount as it is required to deduct and withhold from such payment under the Code or any provision of U.S. federal, state, local or foreign tax law. To the extent that amounts are withheld by the Operating Partnership, such amounts shall be treated for all purposes of this Agreement as having been paid to the Contributor in respect of which such deduction and withholding was made by the Operating Partnership. The parties shall cooperate to use reasonable efforts to minimize or eliminate any potential withholding.

## Article 3
## Conditions and Closing Deliverables

**3.1.** **Conditions to the Operating Partnership's Obligations.** The obligation of the Operating Partnership to consummate the transactions contemplated hereunder shall be subject to the satisfaction or waiver by the Operating Partnership, on or before the Closing Date, of each of the conditions set forth below in this Section 3.1.

**(a)** **Accuracy of Representations and Warranties.** The representations and warranties of the Contributor contained herein shall be true, correct and complete as of the Effective Date and as of the Closing Date as if made again at that time.

**(b)** **Performance of Obligations**. The Contributor shall have performed in all material respects all obligations that are required to be performed by it at or prior to the Closing Date.



**(c)** **Contributor Deliveries.** On the Closing Date, the Contributor shall have executed (as applicable) and delivered the items set forth in Section 3.2.

**(d)** **Consents.** The Contributor shall have obtained and delivered to the Operating Partnership any consents or approvals of any Governmental Entity or third parties (including any lenders and landlords) required to consummate the transactions contemplated by this Agreement. As used herein, the term "Governmental Entity" means any governmental agency or quasi-governmental agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

**3.2.** **Delivery of Contributor Documents.** At the Closing, the Contributor shall execute (as applicable) and deliver to the Operating Partnership the following:

**(a)** **Contributor Interest Assignment.** A counterpart signature page duly executed by the Contributor to an assignment of the Contributed QOF Interests and a counterpart signature page duly executed by the Contributor to an assignment of the Other Contributed Interests, each in the form attached to this Agreement as Exhibit E (the "Contributor Interest Assignment").

**(b)** **Assignment and Assumption Agreement.** A counterpart signature page duly executed by the Contributor to an assignment and assumption and bill of sale with respect to the Contributed Assets and the Assumed Liabilities in the form attached to this Agreement as Exhibit F (the "Assignment and Assumption Agreement").

**(c)** **Trademark Assignment Agreement**. A counterpart signature page duly executed by the Contributor to a trademark assignment with respect to the transfer of trademarks that constitute the Contributed Assets in the form attached to this Agreement as Exhibit G (the "Trademark Assignment Agreement").

**(d)** **Partnership Agreement.** A counterpart signature page duly executed by the Contributor to the Partnership Agreement or such other documentation evidencing the Contributor's agreement to be bound by the terms and conditions of the Partnership Agreement as may be reasonably requested by the Operating Partnership.

**(e)** **Lease Assignment Agreement**. A counterpart signature page duly executed by to the Contributor to each lease assignment agreement for the assignment and assumption of each Office Lease in the form attached hereto as Exhibit H (each, a "Lease Assignment Agreement").

**(f)** **Other Agreements.** Counterpart signature pages duly executed by the Contributor to each of the Shared Resources and Cooperation Agreement between the Corporation and the Contributor, dated as of the Closing (the "Shared Resources Agreement"), the Tax Receivables Agreement by and among the Corporation, the Contributor and the Operating Partnership, dated as of the Closing (the "Tax Receivables Agreement") and the Registration Rights Agreement by and among, among others, the Corporation and the Contributor, dated as of the Closing (the "Registration Rights Agreement").



**(g)** **Other Documents.** Such other documents, instruments, consents, authorizations, certificates or approvals as may be required by, and reasonably satisfactory to, the Operating Partnership that may be reasonably necessary or desirable to confirm satisfaction of all conditions to the Closing, to consummate the transactions that are the subject of this Agreement and the Related Agreements and to otherwise effect the agreements of the parties hereto, including as required under this Section 3.2.

**3.3.** **Conditions to the Obligations of the Contributor.** The obligation of the Contributor to consummate the transactions contemplated by this Agreement is subject to the satisfaction or waiver by the Contributor, on or before the Closing Date, of each of the conditions set forth below.

**(a)** **The Operating Partnership Deliveries.** On the Closing Date, the Operating Partnership shall have executed (as applicable) and delivered the items set forth in Section 3.4.

**(b)** **Accuracy of Representations and Warranties.** All representations and warranties of the Operating Partnership contained herein shall be true, correct and complete in all material respects as of the Closing Date as if made at that time.

**(c)** **Performance of Obligations**. The Operating Partnership shall have performed in all material respects all obligations that are required to be performed by it at or prior to the Closing Date.

**3.4.** **Delivery of the Operating Partnership Documents.** At the Closing, the Operating Partnership shall execute, satisfy and/or deliver (or cause to be delivered) to the Contributor, as applicable, the following:

**(a)** **Contributor Interest Assignment.** A counterpart signature page duly executed by the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) to each of the Contributor Interest Assignments.

**(b)** **Assignment and Assumption Agreement.** A counterpart signature page duly executed by the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) to the Assignment and Assumption Agreement.

**(c)** **Trademark Assignment Agreement.** A counterpart signature page duly executed by the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) to the Trademark Assignment Agreement.

**(d)** **Lease Assignment Agreement.** A counterpart signature page duly executed by the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) to each Lease Assignment Agreement.

**(e)** **The OP Units.** Evidence that the OP Units have been issued to the Contributor in accordance with the terms and conditions hereof.



**(f)** **Partnership Agreement.** A true and complete copy of the Partnership Agreement, which shall then be in full force and effect.

**(g)** **Other Agreements.** Counterpart signature pages duly executed by the Corporation to each of the Shared Resources Agreement, the Tax Receivables Agreement, and the Registration Rights Agreement.

**(h)** **Other.** Such other documents, instruments, consents, authorizations, certificates or approvals as may be required by, and reasonably satisfactory to, the Contributor that may be reasonably necessary or desirable to confirm satisfaction of all conditions to the Closing, to consummate the transactions that are the subject of this Agreement and the Related Agreements and to otherwise effect the agreements of the parties hereto.

## Article 4
## Representations and Warranties

**4.1.** **Representations and Warranties of the Contributor.** The Contributor hereby represents and warrants to the Operating Partnership as of the Effective Date and as of the Closing Date, as follows:

**(a)** **Existence and Power.** The Contributor has been duly formed as a limited liability company and is validly existing and in good standing under the laws of the State of Delaware. The Contributor has all power and authority to enter into this Agreement and all other documents to be executed and delivered in connection with the transactions that are the subject of this Agreement, including the Partnership Agreement and the Related Agreements, to the extent they are to be executed by the Contributor, and to deliver and to perform its obligations hereunder and under all other documents to be executed and delivered in connection with the transactions that are the subject of this Agreement, including all Related Agreements, to the extent they are to be executed by the Contributor.

**(b)** **Existing Entity Status/Organizational Documents.**

(i) Each Existing LLC is a limited liability company duly formed, validly existing and in good standing under the laws of its jurisdiction of formation. Each Existing LLC has the requisite power and authority to carry on its business as now being conducted.

(ii) The Existing Corporation is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation. The Existing Corporation has the requisite power and authority to carry on its business as now being conducted.

(iii) Each Existing Trust is a trust duly formed, validly existing and in good standing under the laws of its jurisdiction of organization. Each Existing Trust has the requisite power and authority to carry on its business as now being conducted.



**(c)** **Authorization; No Contravention.** The execution and delivery of this Agreement and the Related Agreements to which it is a party by the Contributor and the performance of its obligations under each of the foregoing has been duly authorized by all requisite organizational action, and all necessary authorizations, consents, approvals, elections and waivers relating thereto have been obtained as of the Closing Date. This Agreement has been, and the Related Agreements shall on the Closing Date have

been, duly executed and delivered by the Contributor. This Agreement and the Related Agreements constitute the valid, legal and binding obligations of the Contributor, enforceable against the Contributor in accordance with their respective terms, subject, as to enforcement, to the bankruptcy, reorganization, and solvency and other similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity. Each consent, approval, authorization, order, license, certificate, permit, registration, designation, or filing by or with any governmental agency or body necessary for the execution, delivery and performance of this Agreement, the Related Agreements or the transactions contemplated hereby or thereby by the Contributor has been obtained or will be obtained on or before the Closing Date. Each consent or approval required under the organizational documents, contract or agreement of the Existing Entity, relating to indebtedness or otherwise, necessary for the execution, delivery and performance of this Agreement and the contribution, acquisition and transfer of the Contributed Interest has been obtained or will be obtained on or before the Closing Date.

**(d) Ownership**.

(i) The Contributor owns the Contributed Interests beneficially or of record, as applicable, free and clear of any and all Liens other than Permitted Liens. Except as described in Part 1-B of Exhibit A, the Contributed Interests constitute all of the issued and outstanding equity of the Existing LLCs and Existing Corporation and all of the issued and outstanding subordinated equity of the Trusts. Contributor has not granted any options, warrants, or rights to subscribe to, securities, member interests, rights or obligations convertible into or exchangeable for or given any right to subscribe for or participate in the profits of all or any portion of the Contributed Interest.

(ii) The Contributor has good and transferable title to, or other legal rights to possess and use, the Contributed Assets, free and clear of all Liens other than Permitted Liens. The Contributed Assets are, in the aggregate, sufficient for the Operating Partnership to conduct the business of the Existing Entities immediately after the Closing in all material respects in substantially the same manner as of immediately prior to the Closing.

(iii) At the Closing, upon consummation of the transactions contemplated by this Agreement, the Operating Partnership will acquire the entire legal and beneficial interest in all of the Contributed Interest, free and clear of any and all Liens other than Permitted Liens.

**(e) Office Leases.** Schedule 4.1(e) sets forth a list of all office leases or other written agreements pertaining to office space that is leased by the Contributor (the "Office Leases") pursuant to which the Contributor is a tenant as of the date hereof.

**(f) Vendor Service Contracts**. Schedule 4.1(f) sets forth a list of all vendors with which the Contributor has certain contracts (the "Vendor Service Contracts") pursuant to which the Contributor receives software license services, cleaning services and other administrative services that are necessary for the operation of the business of the Existing Entities in the ordinary course.



**(g) Pending Actions.** Except as set forth on Schedule 4.1(g), there are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, relating to the ownership of the Contributed Interests or the Contributed Assets, in any court or before or by a federal, state, county, municipal department, commission, board, bureau, or agency or other governmental instrumentality.

**(h) Existing Loans.** Part 1 of Schedule 4.1(h) attached hereto lists all indebtedness of the Existing Entities, together with the indebtedness of the Contributor that is part of the Assumed Liabilities (collectively, the "Existing Loans") and the outstanding aggregate principal balance of each of the Existing Loans. Part 2 of Schedule 4.1(h) contains a true, correct and complete list of all the documents entered into in connection with any Existing Loans (such notes, deeds of trust or mortgages and all other documents or instruments evidencing or securing or executed in connection with the Existing Loans, including any financing statements, and any amendments, modifications, and assignments of the foregoing shall be referred to collectively as the "Existing Loan Documents"), and no Existing Loan Documents have been amended, modified or assigned except as set forth thereon. The Existing Loan Documents are in full force and effect. True, correct and complete copies of the Existing Loan Documents have been made available to the Operating Partnership. No breach or default by any Existing Entity has occurred and is continuing with respect to any Existing Loans and/or under any of the Existing Loan Documents and no event has occurred and is continuing which with the passage of time or the giving of notice (or both) would constitute a breach or default under any of the Existing Loan Documents. Neither the Contributor nor any Existing Entity has received or given written notice of a breach or default under any Existing Loan Documents, which remains uncured.

**(i) Accredited Investor.** The Contributor and each of the direct and indirect partners, members and/or other beneficiaries is an accredited investor, meaning a person who qualified as an "accredited investor" under Rule 501(a) of Regulation D of the Securities Act. The Contributor understands the risks of, and other considerations relating to, the acquisition of OP Units (including any securities into which the OP Units may be converted). The Contributor by reason of its business and financial experience, or its managers, together with the business and financial experience of those persons, if any, retained by the Contributor to represent or advise the Contributor with respect to the Contributor's investment in OP Units (including any securities into which the OP Units may be converted):

(i) has such knowledge, sophistication and experience in financial and business matters and in making investment decisions of this type that it is capable of evaluating the merits and risks of an investment in the Operating Partnership and the Corporation and of making an informed investment decision;

(ii) is capable of protecting its own interest or has engaged representatives or advisors to assist it in protecting its interests;

(iii) is capable of bearing the economic risk of such investment; and

(iv) in making its decision to enter into this Agreement, has conducted its own due diligence, has been represented by competent counsel and financial advisors and has not relied on oral or written advice from the Operating Partnership, the Corporation and/or their affiliates, representatives, or agents or on representations or warranties of the Operating Partnership other than those set forth in this Agreement.



**(j) Investment For Own Account.** The OP Units to be acquired by the Contributor as contemplated hereby will be acquired for its own account for investment only and not with a view to, or with any intention of, a distribution or resale thereof, in whole or in part, in any transaction that would require registration under the Securities Act unless such OP Units are so registered.

**(k) Access to Information; Review of Documents.** The Contributor confirms and acknowledges that: (i) the Contributor has carefully read and understood this Agreement and the Partnership Agreement; (ii) the Contributor has made such further investigations as the Contributor has deemed appropriate; (iii) neither the Corporation, General Partner, the Operating Partnership nor anyone else on the Operating Partnership's behalf has made any representations or warranties of any kind or nature to induce the Contributor to enter into this Agreement except as specifically set forth in Section 4.2; (iv) the Contributor has been afforded access to information about the Operating Partnership and the Corporation and each entity's respective financial condition and results of operations sufficient to evaluate its investment in OP Units; and (v) the Contributor has been afforded the opportunity to obtain any additional information necessary to verify the accuracy of information otherwise furnished by the Operating Partnership and the Corporation.

**(l) Unregistered Securities.** The Contributor acknowledges that:

(i) The OP Units to be acquired by the Contributor hereunder, together with the shares of Class A Common Stock or Class B Common Stock that may be issued upon exchange or conversion of such OP Units, have not been registered under the Securities Act of 1933, as in effect from time to time (the "Securities Act"), or state securities laws by reason of a specific exemption or exemptions from registration under the Securities Act and applicable state securities laws;

(ii) The Operating Partnership's and Corporation's reliance on such exemptions is predicated in part on the accuracy and completeness of the representations and warranties of the Contributor contained herein; and

(iii) The OP Units and Class B Common Stock, together with the shares of Class A Common Stock and Class B Common Stock that may be issued upon exchange or conversion of such OP Units, therefore, cannot be resold unless registered under the Securities Act and applicable state securities laws, or unless an exemption from registration is available.

The Contributor hereby acknowledges that because of the restrictions on transfer or assignment of such OP Units to be issued hereunder, together with the shares of Class A Common Stock and Class B Common Stock that may be issued upon exchange or conversion of such OP Units, the Contributor may have to bear the economic risk of such OP Units, Class B Common Stock or Class A Common Stock for an indefinite period of time. The Contributor also acknowledges that certificates (if any) representing the OP Units, together with the

shares of Class A Common Stock and Class B Common Stock that may be issued upon exchange or conversion of such OP Units, will bear a legend substantially similar to the following:



THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER ANY STATE SECURITIES LAWS, AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR SUCH STATE SECURITIES LAWS OR AN EXEMPTION FROM REGISTRATION THEREUNDER.

**(m) Brokerage Commissions.** The Contributor has not engaged the services of any agent, broker, finder or any other person or entity for any brokerage or finder's fee, commission or other amount with respect to the transactions described herein.

**4.2. Representations and Warranties of the Operating Partnership.** The Operating Partnership hereby represents and warrants to the Contributor as of the Closing Date as follows:

**(a) Existence and Power.** The Operating Partnership has been duly formed and is validly existing as a Delaware limited partnership. The Operating Partnership has all power and authority under its organizational documents to enter into this Agreement and the Related Agreements executed by it.

**(b) Authorization; No Contravention.** The Operating Partnership's execution and delivery of this Agreement and the Related Agreements, and the performance of its obligations under each of the foregoing, shall, by the Closing Date, have been duly authorized by all requisite organizational action, and all necessary authorizations, consents, appointments, elections and waivers relating thereto and shall have been obtained as of the Closing Date. This Agreement has been, and such Related Agreements shall on the Closing Date have been, duly executed and delivered by the Operating Partnership. This Agreement constitutes and, upon the execution thereof, the Related Agreements executed by the Operating Partnership will constitute the valid, legal and binding obligations of the Operating Partnership, each enforceable against the Operating Partnership in accordance with their respective terms, subject, as to enforcement, to the bankruptcy, reorganization, and solvency and other similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

**(c) OP Units.** The OP Units to be issued to the Contributor hereunder have been duly authorized for issuance to the Contributor and, upon such issuance, will be validly issued.

**(d) Pending Actions.** There are no actions, suits or proceedings of any kind involving the Operating Partnership, any of its assets or the operation of any of the foregoing, which, if determined adversely to the Operating Partnership or its assets, would interfere with the Operating Partnership's ability to execute or deliver, or perform its obligations under, this Agreement or any of the Related Agreements executed by it.



**4.3. Representations and Warranties of the Corporation.** The Corporation hereby represents and warrants to the Contributor as of the Closing Date as follows:

**(a) Existence and Power.** The Corporation has been duly incorporated and is validly existing as a Maryland corporation. The Corporation has all power and authority under its organizational documents to enter into this Agreement.

**(b) Authorization; No Contravention.** The Corporation's execution and delivery of this Agreement, and the performance of its obligations under the foregoing, shall, by the Closing Date, have been duly authorized by all requisite corporate action, and all necessary authorizations, consents, appointments, elections and waivers relating thereto and shall have been obtained as of the Closing Date. This Agreement has been duly executed and delivered by the Corporation. This Agreement constitutes and, upon the execution thereof, the valid, legal and binding obligations of the Corporation, enforceable against the Corporation in accordance with its

terms as applicable to the Corporation, subject, as to enforcement, to the bankruptcy, reorganization, and solvency and other similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

**(c)** **Class B Common Stock.** The shares of Class B Common Stock to be issued to the Contributor hereunder have been duly authorized for issuance to the Contributor and, upon such issuance, will be validly issued, fully paid and nonassessable.

**(d)** **Class A Common Stock and Class B Common Stock.** The shares of Class A Common Stock and Class B Common Stock that may be issued upon exchange of OP Units have been duly authorized for issuance to the Contributor and, upon such issuance, will be validly issued, fully paid and nonassessable.

## Article 5
## Covenants

**5.1.** **Affirmative Covenants.** Through the Closing, the Contributor agrees to, and shall cause the Existing Entities to promptly notify the Operating Partnership in writing if the Contributor or Existing Entities becomes aware of any fact or circumstance which would make any representation or warranty contained in this Agreement inaccurate.

**5.2.** **Negative Covenants.** Without the Operating Partnership's prior written approval, which may be withheld in its sole and absolute discretion, through the Closing, the Contributor shall not, and shall not cause or permit any Existing Entity to:

(i) contribute, sell, transfer or otherwise dispose (or agree to contribute, sell, transfer or otherwise dispose of) of all or any portion of the Contributed Interests or the Contributed Assets; or

(ii) incur, create, or assume any Lien, other than Permitted Liens, with respect to all or any portion of any Contributed Interest or any Contributed Asset.

**5.3.** **Lock-Up Period.** The Contributor by its execution and delivery of this Agreement, agrees that, for a period of 180 days following the date of the prospectus in the IPO it may not, in any way or to any extent, exchange (pursuant to Section 8.06 of the Partnership Agreement or otherwise), sell, transfer, assign or otherwise dispose of, any or all of the OP Units delivered to it at the Closing, if any, except for an exchange of the Class B OP Units for an equivalent number of shares of Class B Common Stock on or about the Closing Date, sales to the Operating Partnership or Corporation, respectively, transfers for bona fide estate planning purposes pursuant to Section 11.03(a)(i) of the Partnership Agreement, transfers pursuant to Section 11.03(a)(ii) of the Partnership Agreement following the date that is one year from the Closing, and distributions to its owners for no consideration, provided that any transferee agrees to remain subject to the same restrictions in this Section 5.3 that apply to the Contributor.



**5.4.** **Employee Matters.**

**(a)** Transfer of Employment. Effective upon the Closing, the employment of each Contributor Employee shall be transferred to and continued by the Operating Partnership or shall be assigned and transferred to a subsidiary of the Operating Partnership. Each of the parties agrees to execute, and to seek to have the applicable employees execute, such documentation, if any, as may be necessary to reflect such assignments and transfers.

**(b)** At-Will Status. Notwithstanding the above or any other provision of this Agreement, nothing in this Agreement shall create any obligation on the part of any of the Operating Partnership or any of its affiliates to (i) continue the employment of any Contributor Employee or permit the return from a leave of absence for any period following the Closing (except as required by applicable law) or (ii) change the employment status of any Contributor Employee from "at will," to the extent such employee is an "at will" employee under applicable law.

**(c)** Severance. The parties acknowledge and agree that the transactions contemplated hereunder and the assignment, transfer or continuation of the employment of Contributor Employees as contemplated by this Section 5.4 shall not be deemed a severance of employment of any Contributor Employee for purposes of this Agreement or any Benefit Plan.

**(d)** Not a Change of Control/Change in Control. The parties acknowledge and agree that neither the consummation of transactions contemplated hereunder nor any other transaction in connection with the aforementioned transactions shall be deemed a "change of control" or term of similar import for purposes of any Benefit Plan or with respect to any Contributor Employee.

**(e)** Payroll and Related Taxes. To the extent applicable, with respect to the portion of the tax year occurring prior to and including the Closing, the Contributor will (i) be responsible for all payroll obligations, tax withholding and reporting obligations and (ii) furnish a Form W-2 or similar earnings statement to all the Contributor Employees for such period. With respect to the remaining portion of such tax year, the Operating Partnership will (i) be responsible for all payroll obligations, tax withholding, and reporting obligations regarding Contributor Employees and (ii) furnish a Form W-2 or similar earnings statement to all Contributor Employees. With respect to each Contributor Employee, Contributor and Operating Partnership shall, and shall cause their respective affiliates to (to the extent permitted by applicable law and practicable) (x) treat Operating Partnership (or an applicable subsidiary) as a "successor employer" and the Contributor (or the applicable the Contributor affiliate) as a "predecessor," within the meaning of Sections 3121(a)(1) and 3306(b)(1) of the Code, to the extent appropriate, for purposes of taxes imposed under the United States Federal Insurance Contributions Act, as amended ("FICA"), or the United States Federal Unemployment Tax Act, as amended ("FUTA"); (y) cooperate with each other to avoid, to the extent possible, the restart of FICA and FUTA upon or following the Closing with respect to each such Contributor Employee for the tax year during which the Closing occurs; and (z) file tax returns, exchange wage payment information, and report wage payments made by the respective predecessor and successor employer on separate IRS Forms W-2 or similar earnings statements to each such Contributor Employee for the tax year in which the Effective Time occurs, in a manner provided in Section 4.02(l) of Revenue Procedure 2004-53.



**(f)** Employment Contracts. The Operating Partnership shall assume and honor, or will cause an Operating Partnership subsidiary to assume and honor, any agreements to which any Contributor Employee is party with either any affiliate of the Operating Partnership or any joint venture with an affiliate of the Contributor, including any (i) employment contracts or (ii) retention, severance or change of control arrangements.

**(g)** Compliance With Employment Laws. At and after the Closing, the Operating Partnership and its affiliates shall be responsible for adopting and maintaining any policies or practices, and all other actions and inactions, necessary to comply with employment-related laws and requirements relating to the employment of Contributor Employees.

**(h)** Sharing of Information. Subject to any limitations imposed by applicable laws, Contributor and Operating Partnership shall provide to each other and their respective agents and vendors all information necessary for the parties to perform their respective duties under this Agreement. The parties also hereby agree to enter into any business associate arrangements that may be required for the sharing of any information pursuant to this Agreement to comply with the requirements of HIPAA.

**(i)** Transfer of Personnel Records and Authorization. Subject to any limitation imposed by applicable laws, on the Closing, Contributor shall transfer and assign to the Operating Partnership all personnel records, immigration documents, including I-9 forms and work authorizations, payroll deduction authorizations and elections, whether voluntary or mandated by law, including but not limited to Forms W-4 and deductions for benefits under the applicable Benefit Plan and all absence management records, FMLA records, insurance beneficiary designations, flexible spending account enrollment confirmations, and attendance and return to work information ("Benefit Management Records") relating to Benefit Plan participants.

**(j)** Benefit Plan Sponsor. Upon the Closing, the Operating Partnership shall adopt and become the plan sponsor of each Benefit Plan. Without limiting the generality of the foregoing, the Operating Partnership shall adopt the Preston Hollow Capital, LLC Savings & Investment Plan (the "Savings Plan") and execute a definitive instrument of amendment to the Savings Plan reflecting the Operating Partnership as plan sponsor and a participating employer. With respect to each Benefit Plan that is an employee welfare benefit plan within the meaning of Section 3(1) of ERISA (each a "Welfare Plan"), the Operating Partnership shall execute all instruments required by any insurance company, trustee or third-party administrator or provider to give effect to the foregoing.

**(k)** Liability for Claims. With respect to unpaid covered claims incurred on or prior to the Closing by any participant under any Welfare Plan, including claims that are self-insured and claims that are fully insured through third-party insurance, the Operating Partnership shall retain and be responsible for the payment for such claims or shall cause the applicable Welfare Plan to fully perform, pay and discharge all such claims, as the case may be.

**(l)** Insurance Contracts. To the extent any Welfare Plan is funded through the purchase of an insurance contract or is subject to any stop-loss contract, Contributor and Operating Partnership will cooperate and use commercially reasonable efforts to replicate such insurance contracts for Operating Partnership (except to the extent changes are required under applicable state insurance laws or filings by the respective insurers) and to maintain any pricing discounts or other preferential terms for Operating Partnership for a reasonable term.

**(m)** Third-Party Vendors. Except as provided below, to the extent any Welfare Plan is administered by a third-party vendor, Contributor and Operating Partnership shall cooperate and use commercially reasonable efforts to replicate any contract with such third-party vendor for Operating Partnership and to maintain any pricing discounts or other preferential terms for Operating Partnership.

**(n)** Workers' and Unemployment Compensation. Effective as of the Closing, Operating Partnership shall, or shall cause an affiliate to, assume the obligations for all claims and liabilities relating to (i) workers' compensation benefits with respect to (A) injuries that occur following the Closing affecting Contributor Employees and whose claims relating to such injuries are incurred following the Closing, and (B) injuries that occur prior to the Closing affecting Contributor Employees but whose claims relating to such injuries are incurred following the Closing; and (ii) unemployment compensation benefits for all Contributor Employees. Effective as of the Closing, Operating Partnership will be responsible for (x) obtaining workers' compensation insurance, including providing all collateral required by the insurance carriers and (y) establishing new or transferred unemployment insurance employer accounts, policies and claims handling contracts with applicable government agencies.

**(o)** Assignment of Contribution Rights. Contributor will transfer and assign to Operating Partnership all rights to seek contribution or damages from any applicable third-party (such as a third-party who aggravates an injury to a worker who makes a workers' compensation claim) with respect to any workers' compensation claim for which Operating Partnership is responsible pursuant to this Section 5.4.

**(p)** Collateral. On and after the Closing, Operating Partnership shall be responsible for providing all collateral required by insurance carriers in connection with workers' compensation claims for which liability is allocated to Operating Partnership under this Section 5.4.

**(q)** Accrued Time Off. Operating Partnership shall recognize and assume all Liability for all unused vacation, holiday, sick leave, flex days, personal days and paid-time off and other time-off benefits with respect to Contributor Employees which accrued prior to the Closing, and Operating Partnership shall credit each Contributor Employee with such accrual.

**(r)** Leaves of Absence. Operating Partnership will continue to apply the appropriate leave of absence policies applicable to inactive Contributor Employees who are on an approved leave of absence as of the Closing. Leaves of absence taken by Contributor Employees prior to the Closing shall be deemed to have been taken as employees of Operating Partnership.



**5.5. Tax Matters.**

**(a)** All transfer, stamp, documentary, sales, use, registration, and other similar Taxes (including any applicable real estate transfer Taxes) incurred in connection with the transactions contemplated by Article 2 of this Agreement ("Transfer Taxes") shall be paid by the Contributor. The parties agree to cooperate in connection with the preparation, execution and filing of any Tax Returns with respect to Transfer Taxes, including promptly supplying any information in their possession that is reasonably necessary to complete such returns.

**(b)** With respect to each Existing Entity, to the extent consistent with the terms of the limited liability company agreement or other governing documents of such Existing Entity, all Pass-Through Tax Returns of the Existing Entity for taxable years beginning on or before the Closing Date and filed after the Closing Date shall be prepared by the Operating Partnership, provided that the Operating Partnership (i) shall provide a draft of each such Tax Return to the Contributor at least thirty (30) days before filing such

return with the applicable Tax Authority and (ii) shall incorporate in the version of such return filed with such Tax Authority any changes proposed by the Contributor in writing within fifteen (15) days of receiving the draft of such return which the Operating Partnership approves (such approval not to be unreasonably withheld, conditioned or delayed). Without limiting the foregoing, with respect to any Existing Entity that is treated for U.S. federal income tax purposes as a partnership, to the extent consistent with the limited liability company agreement or other governing documents of such Existing Entity, items of income, deduction, gain, loss and credit for the taxable year of such Existing Entity in which the transactions contemplated by Article 2 occur will be allocated between the Contributor and the Operating Partnership pursuant to Section 706 of the Code and the Treasury Regulations thereunder (and any corresponding provision of state or local law) based on a "closing of the books" as of the close of business on the Closing Date.

**(c)** In the event a Tax Authority commences a Tax Proceeding with respect to a Pass-Through Tax Return for a taxable year of an Existing Entity that begins on or before the Closing Date, to the extent consistent with the limited liability company agreement or other governing documents of such Existing Entity, the Operating Partnership shall control the conduct and resolution of such proceeding, provided that the Operating Partnership (i) shall notify the Contributor promptly (and in any event within ten (10) days) of the commencement of such proceeding and shall keep the Contributor timely informed of material developments in such proceeding, (ii) upon the Contributor's request from time to time, shall consult with the Contributor regarding the conduct of such proceeding and (iii) shall not consent to the settlement or other final disposition of such proceeding without the Contributor's prior written consent (not to be unreasonably withheld, conditioned or delayed). In addition, in the event a Tax Authority commences any Tax Proceeding with respect to the taxable year of the Operating Partnership that includes the Closing Date in which the tax treatment of any of the transactions contemplated by Article 2 of this Agreement is at issue, the Operating Partnership shall control the conduct and resolution of such proceeding, provided that the Operating Partnership (i) shall notify the Contributor promptly (and in any event within ten (10) days) of the commencement of such proceeding and shall keep the Contributor timely informed of all developments in such proceeding relating to such issue, (ii) shall cooperate with the Contributor to ensure the Contributor controls the conduct and resolution of the portion of such proceeding related to such issue and (iii) shall not consent to the settlement or other final disposition of such proceeding without the Contributor's prior written consent (not to be unreasonably withheld, conditioned or delayed).



**(d)** The Contributor and the Operating Partnership will, and will cause their respective representatives to (i) provide the other party and its representatives with such assistance as may be reasonably requested in connection with the preparation of any Tax Return or conduct of any Tax Proceeding in respect of any taxable year or years beginning on or prior to the Closing Date, (ii) retain all books and records with respect to Tax matters relating to such taxable years until sixty (60) days following the expiration of the applicable statute of limitations (including any extensions thereof) of the respective taxable years, and abide by all record retention agreements entered into with any Tax Authority, and (iii) give the other party reasonable written notice prior to transferring, destroying, or discarding any such books and records and, if the other party so requests, allow such other party to take possession of any such books and records.

**(e)** On or within ten (10) days prior to the Closing Date, the Contributor shall provide to the Operating Partnership a valid, duly completed Internal Revenue Service ("IRS") Form W-9.

**(f)** Notwithstanding anything in this Agreement to the contrary, each party's obligations under Section 2.5 and this Section 5.5 (and that party's obligation under Article 7 to provide indemnification for a breach by that party of its obligations under Section 2.5 or this Section 5.5) shall survive until the sixty (60) days after the expiration of the applicable statutes of limitation (taking into account any extensions or waivers thereof) for the assessment or imposition of Taxes to which Section 2.5 and this Section 5.5 relate.

**(g)** For purposes of this Agreement:

(i) "Pass-Through Tax Return" means a Tax Return of an Existing Entity that reports income or losses with respect to such Existing Entity but with respect to which the direct or indirect beneficial owners of such Existing Entity, and not the Existing Entity, are required to pay the related Tax on such income or are entitled to the benefit of such loss (including, for the avoidance doubt IRS Form 1065 and any similar U.S. state or local tax form).

(ii) "Tax Authority" means any governmental authority responsible for the collection, operation or administration of Taxes;

(iii) "Taxes" means any and all U.S. federal, state, local, municipal, foreign and other taxes, levies, fees, imposts, duties and charges of whatever kind, including, taxes imposed on, or measured by, net income, gross income, gross receipts, sales, use, value added, goods and services, escheat, ad valorem, non-ad valorem, transfer, franchise, profits, registration, license, lease, service, service use, withholding, payroll, employment, social security, excise, severance, stamp, occupation, premium, property, windfall profits, estimated, capital gains, capital stock, alternative or add-on minimum tax, as well as any related interest, penalties and additions to tax, in each case, imposed by a Tax Authority;



(iv) "Tax Proceeding" means any examination, audit or other administrative or judicial proceeding with respect to Taxes or a Tax Return; and

(v) "Tax Return" means any return, declaration, report, claim for refund or information return relating to Taxes, including any schedule or attachment thereto.

**5.6. Lease Assignments.** On or prior to the Closing Date, the Contributor shall use its commercially reasonable efforts to obtain the consent of each landlord with respect to each Office Lease for the assignment and transfer of such Office Lease to the Operating Partnership (or its designee designated in accordance with Section 2.1(g)) pursuant to the respective Lease Assignment Agreement to the extent such consent is required under such Office Lease.

## Article 6
## Defaults and Remedies

**6.1. Default by the Contributor.** If the Closing is not consummated because of a default by the Contributor under this Agreement, then the Operating Partnership may either: (a) seek specific performance of this Agreement by requiring the Contributor to assign the Contributed Interests and the Contributed Assets to the Operating Partnership in accordance with the terms hereof and in connection therewith the Contributor shall reimburse the Operating Partnership for the expenses incurred by the Operating Partnership in connection with seeking such specific performance; or (b) by written notice to the Contributor, terminate this Agreement and, except as expressly set forth elsewhere in this Agreement, neither the Contributor nor the Operating Partnership shall thereafter have any obligation under any provision of this Agreement.

**6.2. Default by the Operating Partnership.** If the Closing is not consummated as a result of a default by the Operating Partnership hereunder, then the Contributor shall have the right by written notice to the Operating Partnership to terminate this Agreement and, except as expressly set forth elsewhere in this Agreement, neither the Contributor nor the Operating Partnership shall thereafter have any obligation under any provision of this Agreement.

**6.3. Waiver of Damages.** Except for the specific remedies set forth in Article 6, Article 7 and Article 8, the Contributor, the Operating Partnership and the Corporation each hereby waive any and all rights to claim actual, consequential or punitive damages against the other party for failure to perform its respective obligations hereunder.

## Article 7
## Indemnification

**7.1. Contributor Indemnification.** Subject to the limitations provided below, from and after the Closing Date, the Contributor agrees to indemnify, defend and hold harmless the Operating Partnership and its affiliates from and against any and all damage, loss liability and expense (collectively, "Losses") which are incurred or suffered by it based upon, arising out of, in connection with or by reason of any one or more of the following (such Losses, collectively, the "Indemnification Amounts"): (a) the breach of any of the representations or warranties of the Contributor; and/or (b) any breach by the Contributor of its obligations under this Agreement including any covenant required to be performed by the Contributor pursuant to the terms of this Agreement.

**7.2.** **The Operating Partnership Indemnification.** Subject to the limitations provided below, from and after the Closing Date, the Operating Partnership agrees to indemnify, defend and hold harmless the Contributor from and against all Losses which are incurred or suffered by it based upon, arising out of, in connection with or by reason of: (a) the breach of any of the representations or warranties of the Operating Partnership; and/or (b) any breach by the Operating Partnership of its obligations under this Agreement, including any covenant required to be performed by the Operating Partnership pursuant to the terms of this Agreement.

**7.3.** **The Corporation Indemnification.** Subject to the limitations provided below, from and after the Closing Date, the Corporation agrees to indemnify, defend and hold harmless the Contributor from and against all Losses which are incurred or suffered by it based upon, arising out of, in connection with or by reason of: (a) the breach of any of the representations or warranties of the Corporation; and/or (b) any breach by the Corporation of its obligations under this Agreement, including any covenant required to be performed by the Corporation pursuant to the terms of this Agreement.

**7.4.** **Survival.** All claims for indemnification under this Article 7, if asserted in writing stating the nature of such claims and the basis for indemnification therefore, shall survive the Closing or the termination of the parties' obligations to consummate the transactions contemplated by this Agreement for a period of twelve (12) months, subject to Section 5.5(f). The Contributor's aggregate liability hereunder shall not exceed 10% of the value of the aggregate consideration (valuing the Class A OP Units at the price at which shares of the Corporation's Class A common stock are sold in the IPO and valuing each Class B OP Unit at 2% of the value of each share of Class A Common Stock) received by the Contributor in exchange for the Contributed Interests.

**7.5.** **Exclusive Remedy**. From and after the Closing, the rights and remedies of the parties or their affiliates (including the Corporation) under this Article 7 are exclusive and in lieu of any and all other rights and remedies which of the parties or their affiliates (including the Corporation), may have for breaches under this Agreement. Notwithstanding the preceding sentence, each of the parties acknowledges and agrees that the other parties hereto would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached and accordingly agrees that the other parties hereto shall be entitled to an injunction to prevent breaches of the provisions of this Agreement and to specifically enforce the terms and provisions of this Agreement without proof of actual damages, and each party further agrees to waive any requirement for the securing or posting of any bond in connection with such remedy.

## Article 8
## Miscellaneous

**8.1.** **Entire Agreement; No Amendment.** This Agreement and the Related Agreements represent the entire agreement among each of the parties hereto with respect to the subject matter hereof. It is expressly understood that no representations, warranties, guarantees or other statements shall be valid or binding upon a party unless expressly set forth in this Agreement. It is further understood that any prior agreements or understandings between the parties with respect to the subject matter hereof have merged in this Agreement or the Related Agreements, which alone fully expresses all agreements of the parties hereto as to the subject matter hereof and supersedes all such prior agreements and understandings. This Agreement may not be amended, modified or otherwise altered except by a written agreement signed by the party hereto against whom enforcement is sought. It is agreed that no obligation under this Agreement which by its terms is to be performed or continue to be performed after the Closing and no provision of this Agreement which is expressly to survive the Closing shall merge upon the Closing, but shall survive the Closing.



**8.2.** **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) personally delivered, with proof of delivery thereof (any notice or communication so delivered being deemed to have been received at the time delivered), (ii) sent by United States certified mail, return receipt requested, postage prepaid (any notice or communication so sent being deemed to have been received two (2) Business Days after mailing in the United States), with failure or refusal to accept delivery to constitute delivery for all purposes of this Agreement, or (iii) sent by e-mail, in each case addressed to the respective parties as follows:

If to the Contributor, to:

c/o Preston Hollow Capital, LLC
1717 Main Street, Suite 3900

Dallas, Texas 75201
Attention: John Dinan, General Counsel
E-mail: jdinan@phcllc.com

If to the Operating Partnership or Corporation, to:

c/o Preston Hollow Community Capital, Inc.
1717 Main Street, Suite 3900
Dallas, Texas 75201
Attention: Paige Deskin
E-mail: pdeskin@phcllc.com

with a copy to:

Clifford Chance US LLP
31 West 52nd Street
New York, New York 10019
Attention: Jay L. Bernstein, Esq.
E-mail: jay.bernstein@cliffordchance.com

**8.3.** **No Assignment.** Except as provided in this Section 8.3, neither this Agreement nor any of the rights or obligations hereunder may be assigned by any party hereto without the prior written consent of the other parties.



**8.4.** **Governing Law; Jurisdiction.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to the choice of laws provisions thereof. Each of the parties hereto hereby irrevocably and unconditionally submits to the exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or federal court of the United States of America sitting in New York City. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

**8.5.** **Multiple Counterparts.** This Agreement may be executed in multiple counterparts. If so executed, all of such counterparts shall constitute but one agreement, and, in proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or electronic mail PDF copies of counterparts of the signature pages.

**8.6.** **Further Assurances.** From and after the date of this Agreement and after the Closing, the parties hereto shall take such further actions and execute and deliver such further documents and instruments as may be reasonably requested by the other party and are reasonably necessary to provide to the respective parties hereto the benefits intended to be afforded hereby.

**8.7.** **Successors and Assigns.** The rights and obligations created by this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, receivers, trustees, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person or entity other than the parties and their successors and assigns any right, remedy or claim under or by reason of this Agreement.

**8.8.** **Confidentiality; Publicity.** All press releases or other public communications of any kind relating to the IPO or the transactions contemplated herein, and the method and timing of release for publication thereof, will be subject to the prior written approval of the Operating Partnership.

**8.9.** **Time of Essence.** Time is of the essence with respect to this Agreement.

**8.10.** **Attorneys' Fees.** If this Agreement or the transactions contemplated herein gives rise to a lawsuit, arbitration or other legal proceeding between the parties hereto, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees in addition to any other judgment of the court or arbitrator(s).

**8.11.** **Waiver of Jury Trial.** To the fullest extent permitted by applicable law, the parties hereto waive trial by jury in any action, proceeding or counterclaim brought by any party(ies) against any other party(ies) on any matter arising out of or in any way connected with this agreement or the relationship of the parties created hereunder.

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**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the date and year first above written.

**OPERATING PARTNERSHIP:**

PHCC OP LP,
a Delaware limited partnership

By: PHCC GP, LLC,
a Delaware limited liability company,
its general partner

By: PRESTON HOLLOW COMMUNITY CAPITAL, INC.
a Maryland corporation, as its sole member

By: _____
Name:
Title:

**CONTRIBUTOR:**

PRESTON HOLLOW CAPITAL, LLC
a Delaware limited liability company

By: _____
Name:
Title:

**Solely for purposes of Sections 2.1(f), 4.3 and 7.3,**
**CORPORATION:**

PRESTON HOLLOW COMMUNITY CAPITAL, INC.
a Maryland corporation

By: _____
Name:
Title:

## Exhibit A

### Existing Entities

Part 1-A

[Omitted]

Part 1-B

[Omitted]

Part 2

[Omitted]

Part 3

[Omitted]



## Exhibit B

### Contributed Assets

[Omitted]



## Exhibit C

### Contributed QOF Interests

[Omitted]



## Exhibit D

### Assumed Liabilities

[Omitted]

**Exhibit E**

**Contributor Interest Assignment**

[*See attached*]



**Exhibit F**

**Assignment and Assumption Agreement**

[*See attached*]



**Exhibit G**

**Trademark Assignment Agreement**

[*See attached*]



**Exhibit H**

**Lease Assignment Agreement**

[*See attached*]



**Schedule 2.1(a)**

**Permitted Liens**

[Omitted]

**Schedule 2.1(d)**

**Retained Assets**

[Omitted]



**Schedule 4.1(e)**

**Office Leases**

[Omitted]



**Schedule 4.1(f)**

**Vendor Service Contracts**

[Omitted]



**Schedule 4.1(g)**

**Pending Actions**

[Omitted]



**Schedule 4.1(h)**

**Existing Loans**

Part 1

[Omitted]

Part 2

[Omitted]

**Exhibit 21.1**

## Subsidiaries

| Subsidiary | Jurisdiction |
|---|---|
| Elements Development of Jacksonville, LLC | **Florida** |
| PHCC OP, LP | **Delaware** |
| PHCC GP, LLC | **Delaware** |
| PHC QOF I, LLC | **Delaware** |
| PHC QOF II, LLC | **Delaware** |
| PHC-SLF NP, LLC | **Delaware** |
| PHC-SLF/FM, LLC | **Delaware** |
| Preston Hollow Advisors, LLC | **Delaware** |
| RdR Development Holdings, LLC | **Delaware** |
| PHC William Street Condo, LLC | **Delaware** |
| LL-Lumen Park, LLC | **Delaware** |
| PHC Real Estate Secured, LLC | **Delaware** |
| PHC Real Estate Owned, LLC | **Delaware** |
| PHC Project Loan, LLC | **Delaware** |
| PHC Asset Holdings, LLC | **Delaware** |
| PHC Opportunity, Inc. | **Delaware** |
| Taxable Term A/B Trust, Series AB-1101-1129, 1131-1136, 1138-1139 | **Delaware** |
| PHC Series 2018-1 Term Matched Trust | **New York** |
| PHC Series 2019-2 Term Matched Trust | **New York** |
| PHC Series 2019-3 Term Matched Trust | **New York** |
| PHC Series 2019-5 Term Matched Trust | **New York** |
| PHC Series 2021-1 Term Matched Trust | **New York** |
| PHC Series 2021-2 Term Matched Trust | **New York** |
| PHC Series 2021-3 Term Matched Trust | **New York** |
| PHC Series 2021-4 Term Matched Trust | **New York** |
| PHC Series 2021-5 Term Matched Trust | **New York** |