

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2022-10-06** | Period of Report: **2022-10-05**  
SEC Accession No. [0001104659-22-106773](#)

[\(HTML Version on secdatabase.com\)](#)

FILER

**Bluerock Homes Trust, Inc.**

CIK: **1903382** | IRS No.: **874211187** | State of Incorporation: **MD** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **001-41322** | Film No.: **221298281**  
SIC: **6798** Real estate investment trusts

Mailing Address  
1345 AVENUE OF THE  
AMERICAS  
32ND FLOOR  
NEW YORK NY 10105

Business Address  
1345 AVENUE OF THE  
AMERICAS  
32ND FLOOR  
NEW YORK NY 10105  
2128431601

---

---

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

---

**FORM 8-K**

---

**CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): October 5, 2022**

---

**BLUEROCK HOMES TRUST, INC.**

(Exact name of Registrant as specified in its charter)

---

**Maryland**  
(State or other Jurisdiction of  
Incorporation)

**001-41322**  
(Commission File Number)

**87-4211187**  
(IRS Employer Identification No.)

**1345 Avenue of the Americas, 32nd Floor**  
**New York, NY**  
(Address of Principal Executive Offices)

**10105**  
(Zip Code)

**(212) 843-1601**  
(Registrant's telephone number, including area code)

**(Former Name or Former Address, if Changed Since Last Report)**

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)  
 Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)  
 Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))  
 Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Class A Common Stock, par value \$0.01 per share</b>	<b>BHM</b>	<b>New York Stock Exchange American</b>

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

Emerging growth company

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

---

---

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

*Separation-Related Agreements*

On October 5, 2022, Bluerock Homes Trust, Inc. (the “Company”) entered into a Separation and Distribution Agreement with Bluerock Residential Growth REIT, Inc. (“BRG”), Badger Parent LLC, Badger Holdco LLC and Bluerock Residential Holdings, L.P., pursuant to which, among other things, BRG agreed to separate the Company from BRG (the “Separation”) – and distribute (the “Distribution”) all of the outstanding common stock of the Company to BRG shareholders who held shares of BRG common stock as of the close of business on September 29, 2022, the record date for the Distribution. BRG distributed 3,835,013 shares of Class A Common Stock of the Company and 8489 shares of Class C Common Stock of the Company in the Distribution, which was effective at 12:01 a.m., Eastern Time, on October 6, 2022 (the “Effective Time”). As a result of the Distribution, the Company is now an independent public company and its common stock is listed under the symbol “BHM” on the New York Stock Exchange American.

In connection with the Separation and the Distribution, on October 5, 2022, the Company entered into various agreements, including the following agreements:

- Separation and Distribution Agreement;
- Tax Matters Agreement; and
- Management Agreement.

Summaries of the material terms of these agreements can be found in the Company’s information statement, dated September 26, 2022, which was included as [Exhibit 99.1 to the Company’s Current Report on Form 8-K filed on September 26, 2022](#) (the “Information Statement”), under the section entitled “The Separation and the Distribution” and “Our Manager and Management Agreement.” These summaries are incorporated herein by reference. The foregoing descriptions of these agreements set forth under this Item 1.01 are not complete and are subject to, and qualified in their entirety by reference to, the full text of the agreements, which are attached hereto as Exhibits 2.1, 10.1 and 10.2 and are incorporated herein by reference.

*Indemnification Agreements with Each of the Company’s Directors and Executive Officers*

On October 6, 2022, the Company entered into an indemnification agreement (each, an “Indemnification Agreement”), with each of its current directors and executive officers (collectively, the “Indemnitees”). The Indemnification Agreements clarify and supplement indemnification provisions already contained in the Company’s Second Articles of Amendment and Restatement (as defined below), and the Amended and Restated Bylaws (as defined below), and generally provide that the Company shall indemnify its directors and executive officers to the maximum extent permitted by the Second Articles of Amendment and Restatement, the Amended and Restated Bylaws and Maryland law, subject to certain exceptions, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with their service as a director or executive officer and also provide for rights to advancement of expenses and contribution.

The Indemnification Agreements provide that if a director or executive officer is a party or is threatened to be made a party to any proceeding, by reason of such director’s or executive officer’s status as a director, officer or employee of the Company, the

Company must indemnify such director or executive officer, and advance expenses actually and reasonably incurred by him or her, or on his or her behalf, unless it has been established that:

- the act or omission of the director or executive 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;
- the director or executive officer actually received an improper personal benefit in money, property or services; or
- with respect to any criminal action or proceeding, the director or executive officer had reasonable cause to believe his or her conduct was unlawful.

Except as described below, the Company's directors and executive officers will not be entitled to indemnification pursuant to the Indemnification Agreements:

- if the proceeding was one brought by the Company or in its right and the director or executive officer is adjudged, by final adjudication, to be liable to the Company;
- if the director or executive officer is adjudged, by final adjudication, to be liable on the basis that personal benefit in money, property or services was improperly received; or
- in any proceeding brought by the director or executive officer other than (i) to enforce his or her rights under his or her respective Indemnification Agreement, and then only to the extent provided by the Indemnification Agreement and (ii) as may be expressly provided in the Second Articles of Amendment and Restatement (as defined below), the Amended and Restated Bylaws (as defined below), a resolution of the Board or of the Company's stockholders entitled to vote generally in the election of directors or an agreement to which the Company is a party approved by the Board.

Notwithstanding the limitations on indemnification described above, on application by a director or executive officer of the Company to a court of appropriate jurisdiction, the court may order indemnification of such director or executive officer if:

- the court determines the director or executive officer is entitled to indemnification as described in the following paragraph, in which case the director or executive officer shall be entitled to recover from the Company the expenses of securing such indemnification; or
- the court determines that such director or executive officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director or executive officer (i) has met the standards of conduct set forth above, or (ii) has been adjudged liable for receipt of an "improper personal benefit;" without regard to any limitation on such court-ordered indemnification contemplated by Section 2-418(d)(2)(ii) of the Maryland General Corporation Law.

Notwithstanding, and without limiting, any other provisions of the Indemnification Agreements, if a director or executive officer is a party or is threatened to be made a party to any proceeding by reason of such director's or executive officer's status as a director, officer or employee of the Company, and such director or executive officer 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 must indemnify such director or executive officer for all expenses actually and reasonably incurred by him or her, or on his or her behalf, in connection with each successfully resolved claim, issue or matter, including any claim, issue or matter in such a proceeding that is terminated by dismissal, with or without prejudice.

In addition, the Indemnification Agreements require the Company to advance reasonable expenses incurred by an Indemnitee within ten days of the receipt by the Company of a statement from such Indemnitee requesting the advance, provided the statement reasonably evidences the expenses and is accompanied by a written affirmation and a written undertaking to reimburse the Company if a court of competent jurisdiction determines that the director or executive officer is not entitled to indemnification.

The foregoing description of the Indemnification Agreements set forth under this Item 1.01 is not complete and is subject to, and qualified in its entirety by reference to, the full text of the Indemnification Agreements, which are attached hereto as Exhibits 10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, 10.13, 10.14 and 10.15 and are incorporated by reference herein.

**Item 5.02      Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers;  
Compensatory Arrangements of Certain Officers.**

*Appointment of Officers*

In connection with the Separation and the Distribution, effective as of the Effective Time, the following individuals were elected as executive officers of the Company as set forth in the table below:

R. Ramin Kamfar	Chief Executive Officer
Jordan B. Ruddy	President
Ryan S. MacDonald	Chief Investment Officer
James G. Babb, III	Chief Strategy Officer
Christopher J. Vohs	Chief Financial Officer and Treasurer
Michael DiFranco	Executive Vice President, Operations
Jason Emala	Chief Legal Officer and Secretary

Biographical information about the Company's executive officers can be found in the Information Statement under the section entitled "Our Manager and Management Agreement." Compensation information for the Company's named executive officers can be found in the Information Statement under the section entitled "Compensation of Directors and Officers." These sections of the Information Statement are incorporated herein by reference.

*Appointment of Directors*

On September 26, 2022, when the Company's Registration Statement on Form 10 (File No. 001-41322), initially publicly filed with the U.S. Securities and Exchange Commission (the "SEC") on March 9, 2022 and subsequently amended, was declared effective, the members of the Board consisted of Jordan Ruddy. On September 27, 2022, the day prior to the start of when-issued trading, the size of the Board expanded to consist of two directors, and I. Bobby Majumder was appointed to the Board and the Audit Committee, effective as of such date. In connection with the Separation and the Distribution, effective as of immediately prior to the Effective Time, the size of the Board expanded again to consist of five directors, and Jordan Ruddy resigned from the Board. Each of R. Ramin Kamfar, Elizabeth Harrison, Kamal Jafarnia, and Romano Tio was appointed to the Board effective as of the Effective Time. I. Bobby Majumder remains on the Board and will continue to serve as a director of the Company.

Biographical and compensation information for each of the directors appointed to the Board can be found in the Company's Information Statement under the section entitled "Our Manager and Management Agreement," "Management – Board of Directors Following the Distribution" and "Compensation of Directors and Officers," which is incorporated by reference into this Item 5.02.

As of the effective time of their election to the Board:

- Each of I. Bobby Majumder, Kamal Jafarnia, and Romano Tio were appointed to serve as members of the Audit Committee of the Board and effective as of immediately prior to the Effective Time, I. Bobby Majumder was appointed Chair of the Audit Committee;
- Each of Romano Tio, Elizabeth Harrison, and I. Bobby Majumder were appointed to serve as members of the Compensation Committee of the Board and Romano Tio was appointed Chair of the Compensation Committee;
- Each of I. Bobby Majumder, Kamal Jafarnia, and Romano Tio were appointed to serve as members of the Nominating and Corporate Governance Committee of the Board and I. Bobby Majumder was appointed Chair of the Nominating and Governance Committee; and

- R. Ramin Kamfar was appointed Chairman of the Board.

#### *Adoption of Compensation Plans*

In connection with the Separation and the Distribution, the Company adopted the following compensation plans effective as of the Effective Time. The named executive officers of the Company are or may become eligible to participate in these compensation plans.

- Bluerock Homes Trust, Inc. 2022 Equity Incentive Plan for Individuals; and
- Bluerock Homes Trust, Inc. 2022 Equity Incentive Plan for Entities.

Summaries of certain material features of these plans can be found in the Company's Information Statement under the section entitled "Incentive Plans" These summaries are incorporated herein by reference. The foregoing descriptions of these plans set forth under this Item 5.02 are not complete and are subject to, and qualified in their entirety by reference to, the full text of plans, which are attached hereto as Exhibits 10.3 and 10.4 and are incorporated herein by reference.

#### **Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

In connection with the Separation and the Distribution, the Company filed amended and restated Articles of Incorporation (the "Second Articles of Amendment and Restatement") with the Secretary of State of the State of Maryland on October 5, 2022, which became effective as of 12:00 a.m. on October 6, 2022. The Company also amended and restated its Bylaws (the "Amended and Restated Bylaws"), effective as of October 6, 2022. A description of the material provisions of the Second Articles of Amendment and Restatement and the Amended and Restated Bylaws can be found in the Information Statement, under the section entitled "Description of Our Capital Stock," which is incorporated by reference into this Item 5.03. The foregoing descriptions of the Second Articles of Amendment and Restatement and the Amended and Restated Bylaws are not complete and are subject to, and qualified in their entirety by reference to, the full text thereof, which are attached hereto as Exhibits 3.1 and 3.2, respectively, and are incorporated herein by reference.

#### **Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.**

In connection with the Separation and the Distribution, the Board adopted a Code of Business Conduct and Ethics. The document is available on the Company's website at [www.bluerock.com/bluerock-homes-trust/governance-documents](http://www.bluerock.com/bluerock-homes-trust/governance-documents). The information on the Company's website does not constitute part of this Current Report on Form 8-K and is not incorporated herein by reference.

#### **Item 7.01 Regulation FD Disclosure.**

On October 6, 2022, the Company issued a press release announcing the completion of the Separation. A copy of the press release furnished herewith as Exhibit 99.1, is incorporated herein by reference, and shall not be deemed filed for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section and shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

#### **Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b><u>Exhibit No.</u></b>	<b><u>Exhibit</u></b>
<a href="#"><u>2.1</u></a>	<a href="#"><u>Separation and Distribution Agreement, dated as of October 5, 2022, by and among Bluerock Residential Growth REIT, Inc., Badger Parent LLC, Badger Holdco LLC, Bluerock Residential Holdings, L.P. and Bluerock Homes Trust, Inc.</u></a>
<a href="#"><u>3.1</u></a>	<a href="#"><u>Second Articles of Amendment and Restatement of Bluerock Homes Trust, Inc.</u></a>
<a href="#"><u>3.2</u></a>	<a href="#"><u>Amended and Restated Bylaws of Bluerock Homes Trust, Inc.</u></a>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Tax Matters Agreement, dated as of October 5, 2022, by and among Bluerock Residential Growth REIT, Inc., Badger Parent LLC, Badger Holdco LLC, Bluerock Residential Holdings, L.P., Bluerock REIT Holdings, LLC and Bluerock Homes Trust, Inc.</u></a>
<a href="#"><u>10.2</u></a>	<a href="#"><u>Management Agreement, dated as of October 5, 2022, by and among Bluerock Homes Manager, LLC, Bluerock Homes Trust, Inc. and Bluerock Residential Holdings, L.P.</u></a>
<a href="#"><u>10.3</u></a>	<a href="#"><u>Bluerock Homes Trust, Inc. 2022 Equity Incentive Plan for Individuals.</u></a>
<a href="#"><u>10.4</u></a>	<a href="#"><u>Bluerock Homes Trust, Inc. 2022 Equity Incentive Plan for Entities.</u></a>
<a href="#"><u>10.5</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and R. Ramin Kamfar, effective October 6, 2022</u></a>
<a href="#"><u>10.6</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Jordan Ruddy, effective October 6, 2022</u></a>
<a href="#"><u>10.7</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Ryan MacDonald, effective October 6, 2022</u></a>
<a href="#"><u>10.8</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and James G. Babb, III effective October 6, 2022</u></a>
<a href="#"><u>10.9</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Christopher J. Vohs, effective October 6, 2022</u></a>
<a href="#"><u>10.10</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Michael DiFranco, effective October 6, 2022</u></a>
<a href="#"><u>10.11</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Jason Emala, effective October 6, 2022</u></a>
<a href="#"><u>10.12</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and I. Bobby Majumder, effective October 6, 2022</u></a>
<a href="#"><u>10.13</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Elizabeth Harrison, effective October 6, 2022</u></a>
<a href="#"><u>10.14</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Kamal Jafarnia, effective October 6, 2022</u></a>
<a href="#"><u>10.15</u></a>	<a href="#"><u>Indemnification Agreement by and among Bluerock Homes Trust, Inc., Bluerock Residential Holdings, L.P. and Romano Tio, effective October 6, 2022</u></a>
<a href="#"><u>99.1</u></a>	<a href="#"><u>Press Release of Bluerock Homes Trust, Inc., issued October 6, 2022</u></a>
<a href="#"><u>104</u></a>	<a href="#"><u>The cover page from this Current Report on Form 8-K, formatted in Inline XBRL.</u></a>

**SIGNATURE**

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

**BLUEROCK HOMES TRUST, INC.**

By: /s/ Jason Emala

\_\_\_\_\_  
Name: Jason Emala

Title: Chief Legal Officer and Secretary

Date: October 6, 2022



## SEPARATION AND DISTRIBUTION AGREEMENT

BY AND AMONG

BLUEROCK RESIDENTIAL GROWTH REIT, INC.,

BADGER PARENT LLC,

BADGER HOLDCO LLC,

BLUEROCK RESIDENTIAL HOLDINGS, L.P.

AND

BLUEROCK HOMES TRUST, INC.

DATED AS OF OCTOBER 5, 2022

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	3
ARTICLE II THE SEPARATION	16
2.1 Transfer of Assets and Assumption of Liabilities	16
2.2 SpinCo Assets; Parent Assets	19
2.3 SpinCo Liabilities; Parent Liabilities	22
2.4 Approvals and Notifications	23
2.5 Novation of Liabilities	27
2.6 Release of Guarantees; Dismissal from Litigation	28
2.7 Termination of Agreements	30
2.8 Treatment of Shared Contracts	31
2.9 Bank Accounts; Wrong Pockets	31
2.10 Ancillary Agreements	32
2.11 Disclaimer of Representations and Warranties	33
2.12 SpinCo Cash Amount	33
ARTICLE III THE DISTRIBUTION	34
3.1 Sole and Absolute Discretion; Cooperation	34
3.2 Actions Prior to the Distribution	34
3.3 Conditions to the Distribution	35
3.4 The Distribution	37
ARTICLE IV MUTUAL RELEASES; INDEMNIFICATION	39

4.1	Release of Pre-Distribution Claims	39
4.2	Indemnification by SpinCo	41
4.3	Indemnification by Parent	42
4.4	Indemnification Obligations Net of Insurance Proceeds and Third Party Proceeds	42
4.5	Procedures for Indemnification of Third-Party Claims	43
4.6	Additional Matters	45
4.7	Right of Contribution	46
4.8	Covenant Not to Sue	47
4.9	Remedies Cumulative	47
4.10	Survival of Indemnities	47
4.11	Certain Tax Procedures	48
ARTICLE V CERTAIN OTHER MATTERS		51
5.1	Insurance Matters	51
5.2	Late Payments	53
5.3	Treatment of Payments for Tax Purposes	53
5.4	Inducement	53
5.5	Post-Effective Time Conduct	53
5.6	Intellectual Property License	54
-i-		
ARTICLE VI EXCHANGE OF INFORMATION; CONFIDENTIALITY		55
6.1	Agreement for Exchange of Information	55
6.2	Ownership of Information	56
6.3	Compensation for Providing Information	56
6.4	Record Retention	57
6.5	Limitations of Liability	57
6.6	Other Agreements Providing for Exchange of Information	57
6.7	Production of Witnesses; Records; Cooperation	58
6.8	Privileged Matters	59
6.9	Confidentiality	61
6.10	Protective Arrangements	63
ARTICLE VII DISPUTE RESOLUTION		63
7.1	Good Faith Officer Negotiation	63
7.2	Mediation	63
7.3	Preliminary Relief	64
7.4	Conduct During Dispute Resolution Process	64
ARTICLE VIII FURTHER ASSURANCES AND ADDITIONAL COVENANTS		64
8.1	Further Assurances	64
8.2	Use of Bluerock Names and Bluerock Marks	65
8.3	Reimbursement Obligations	65
8.4	Transaction Litigation	66
ARTICLE IX TERMINATION		66
9.1	Termination	66
9.2	Effect of Termination	66

10.1	Counterparts; Entire Agreement; Corporate Power	67
10.2	Governing Law; Submission to Jurisdiction; Waiver of Jury Trial	68
10.3	Assignability	69
10.4	Third-Party Beneficiaries	69
10.5	Notices	70
10.6	Severability	70
10.7	Force Majeure	71
10.8	No Set-Off	71
10.9	Headings	71
10.10	Survival	71
10.11	Waivers of Default	71
10.12	Specific Performance	71
10.13	Amendments	72
10.14	Interpretation	72
10.15	Limitations of Liability	73
10.16	Performance	73
10.17	Mutual Drafting	73
10.18	Expenses	74
10.19	No Duplication; No Double Recovery	74

## SCHEDULES

Schedule 1.1	Employment Payments
Schedule 1.2	Preferred Equity Joint Ventures
Schedule 1.3(b)	SpinCo Joint Ventures
Schedule 1.3(e)	SpinCo Guarantees
Schedule 1.3(g)	SpinCo Hedging Contracts
Schedule 1.3(h)	SpinCo Debt Contracts
Schedule 1.3(j)	Other SpinCo Contracts
Schedule 1.5	SpinCo Properties
Schedule 2.1(a)	Separation Step Plan
Schedule 2.2(a)(i)	SpinCo Transferred Entities
Schedule 2.3(b)	Parent Liabilities
Schedule 2.7(b)(i)	Terminated Intercompany Agreements
Schedule 2.7(b)(ii)	Continuing Intercompany Agreements
Schedule 8.4	Deductible Amount

## EXHIBITS

Exhibit A	Form of Service Provider Release
Exhibit B	Second Articles of Amendment and Restatement of Bluerock Homes Trust, Inc.
Exhibit C	Amended and Restated Bylaws of Bluerock Homes Trust, Inc.
Exhibit D	Form of Opinion of Vinson & Elkins L.L.P.

## SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT, dated as of October 5, 2022 (this “Agreement”), is by and between Bluerock Residential Growth REIT, Inc., a Maryland corporation (“Parent”), Badger Parent LLC, a Delaware limited liability company (“Badger”), Badger Holdco LLC, a Delaware limited liability company (“New LLC”), Bluerock Residential Holdings, L.P., a Delaware limited partnership (“OP”), and Bluerock Homes Trust, Inc., a Maryland corporation (“SpinCo”). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article I.

## R E C I T A L S

WHEREAS, Parent, Badger and Badger Merger Sub LLC entered into the Agreement and Plan of Merger, dated as of December 20, 2021 (the “Merger Agreement”), pursuant to which Parent will merge with and into Badger Merger Sub LLC (the “Merger”), with Badger Merger Sub LLC continuing as the surviving company;

WHEREAS, the board of directors of Parent (the “Parent Board”) has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the “Separation”) and, following the Separation, for Parent to make a distribution, on a *pro rata* basis, to holders of Parent Shares on the Record Date of all of the outstanding SpinCo Shares owned by Parent (the “Distribution”);

WHEREAS, pursuant to the Separation Step Plan and the terms of this Agreement, and as part of the Separation, among other things: (a) the OP will contribute (or cause to be contributed) or otherwise Transfer (or cause to be Transferred) to the New LLC (or other designees as described herein) the Parent Assets held by it or its Subsidiaries, (b) the OP will distribute all of the equity interests in the New LLC to Parent in exchange for a redemption of 25,210,092 of Parent’s Common Units (as defined in the Partnership Agreement) and all of Parent’s Preferred Units (as defined in the Partnership Agreement), (c) the OP will effect a “unit split” pursuant to which the Common Units (as defined in the Partnership Agreement) will be recapitalized such that the number of the Common Units (as defined in the Partnership Agreement) held by Parent following such redemption in clause (b) will equal the number of outstanding SpinCo Common Shares immediately following the Distribution and (d) Parent will contribute all of its Partnership Interests (as defined in the Partnership Agreement) remaining after the redemption and “unit split” in clauses (b) and (c), including its General Partnership Interest (as defined in the Partnership Agreement), to SpinCo in exchange for (i) a number of additional SpinCo Common Shares such that Parent holds 1 SpinCo Common Share for each 8 issued and outstanding Parent Common Shares as of immediately prior to the Distribution and (ii) a number of additional SpinCo Class C Common Shares such that Parent holds 1 SpinCo Class C Common Share for each 8 issued and outstanding Parent Class C Common Shares as of immediately prior to the Distribution (collectively, the “Internal Restructuring”);

---

WHEREAS, following the completion of the Internal Restructuring and as of immediately prior to the Distribution, (i) SpinCo will be the sole general partner of the OP and will own approximately 34.27% of the Partnership Interests (as defined in the Partnership Agreement), (ii) SpinCo and the OP will, directly or indirectly, own all of the SpinCo Assets and assume (or retain) all of the SpinCo Liabilities, (iii) Parent will directly own all of the equity interests in the New LLC and (iv) Parent will, directly or indirectly (excluding through the SpinCo Group), own all of the Parent Assets and Parent will, directly or indirectly, assume (or retain) all of the Parent Liabilities;

WHEREAS, following the completion of the Internal Restructuring, Parent will effect the Distribution;

WHEREAS, for U.S. federal income tax purposes, it is intended that (a) the Distribution, together with the receipt by the shareholders of Parent of the Merger Consideration (as defined in the Merger Agreement), the Preferred Stock Redemption Amount (as defined in the Merger Agreement) and other applicable amounts pursuant to the Merger, shall be treated as a distribution by Parent to its shareholders in complete liquidation of Parent pursuant to Revenue Ruling 69-6, 1969-1 C.B. 104, Section 331(a) of the Code and Section 562(b)(1) of the Code in full payment in exchange for Parent Shares and (b) the tax treatment of the internal restructuring transactions pursuant to the Separation Step Plan and the terms of this Agreement shall be as described in the Tax Matters Agreement (the “Intended Tax Treatment”);

WHEREAS, SpinCo and Parent have prepared, and SpinCo has filed with the SEC, the SpinCo Registration Statement, which includes the Information Statement, and which sets forth disclosure concerning SpinCo, the Separation and the Distribution;

WHEREAS, each of Parent and SpinCo has determined that it is appropriate and desirable to set forth the principal corporate transactions required to effect the Separation and the Distribution and certain other agreements that will govern certain matters relating to the Separation and the Distribution and the relationship of Parent, SpinCo and the members of their respective Groups following the Distribution; and

WHEREAS, the Parties acknowledge that this Agreement and the Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and the Distribution, are being entered into together, and would not have been entered into independently.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

-2-

---

## ARTICLE I DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meanings:

“Action” shall mean any demand, action, claim, dispute, suit, countersuit, arbitration, litigation, hearing, inquiry, subpoena, proceeding or investigation of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial or otherwise) by or before any Governmental Authority.

“Affiliate” shall mean, when used with respect to a specified Person, a Person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, “control” (including, with correlative meanings, “controlled by” and “under common control with”), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or other interests, by contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment, undertaking or otherwise. It is expressly agreed that, prior to, at and after the Effective Time, for purposes of this Agreement and the Ancillary Agreements, (a) no member of the SpinCo Group shall be deemed to be an Affiliate of any member of the Parent Group and (b) no member of the Parent Group shall be deemed to be an Affiliate of any member of the SpinCo Group.

“Agent” shall mean the trust company or bank duly appointed by Parent to act as distribution agent, transfer agent and registrar for the SpinCo Shares in connection with the Distribution.

“Ancillary Agreements” shall mean all agreements (other than this Agreement) entered into by the Parties or the members of their respective Groups (but as to which no Third Party is a party (other than Badger)) in connection with the Separation, the Distribution, or the other transactions contemplated by this Agreement, including the Tax Matters Agreement, the Restructuring Documents and the Transfer Documents; it being understood that, for the avoidance of doubt, the Merger Agreement and any ancillary agreements thereto shall not be deemed to be Ancillary Agreements.

“Approvals or Notifications” shall mean any consents, waivers, approvals, permits or authorizations to be obtained from, notices, registrations or reports to be submitted to, or other filings to be made with, any third Person, including any Governmental Authority.

“Assets” shall mean, with respect to any Person, the assets, properties, claims and rights (including goodwill) of such Person, wherever located (including in the possession of vendors or other third Persons or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or

required to be recorded or reflected on the books and records or financial statements of such Person, including rights and benefits pursuant to any Contract.

-3-

---

“Badger Non-Recourse Party” shall mean (i) Badger and its Affiliates, successors and assigns and (ii) all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents or employees of Badger or its Affiliates other than, after the Effective Time, any member of the SpinCo Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns.

“Bluerock Names and Bluerock Marks” shall mean the Trademark BLUEROCK and Trademarks containing or comprised of the “Bluerock” name (including, for the avoidance of doubt, BLUEROCK RESIDENTIAL GROWTH REIT (U.S. reg. no. 5114015) (“Bluerock Trademark”)) and owned by BRE.

“BRE” shall mean Bluerock Real Estate L.L.C.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Contract” shall mean any agreement, contract, note, bond, mortgage, indenture, deed of trust, license, loan, lease, arrangement, commitment or other instrument or obligation that is legally binding, but excluding this Agreement and any Ancillary Agreement except as otherwise expressly provided in this Agreement or any Ancillary Agreement.

“Disclosure Document” shall mean (i) the SpinCo Registration Statement, (ii) the Information Statement and (iii) any prospectus, offering memorandum, offering circular, periodic report or similar disclosure document (including, for the avoidance of doubt, any registration statement on Form S-1 or Form S-8 related to securities to be offered under any employee benefit plan) that describes the Separation and the Distribution.

“Distribution Date” shall mean the date of the consummation of the Distribution, which shall be determined by the Parent Board in its sole and absolute discretion (without limiting Badger’s rights or Parent’s obligations pursuant to the Merger Agreement).

“Distribution Ratio” shall mean a number equal to one-eighth (1/8).

“Effective Time” shall mean 12:01 a.m., New York City time, on the Distribution Date (or such other time as may be agreed in writing by the Parties and Badger).

“Employee Benefit Plan” shall mean each “employee benefit plan” (within the meaning of Section 3(3) of ERISA but regardless of whether such plan is subject to ERISA) and each other compensation or benefit plan, program, agreement or arrangement, including each pension, retirement, profit sharing, 401(k), severance, health and welfare, disability, deferred compensation, employment, termination, change-in-control, retention, fringe benefit, stock purchase, cash bonus or equity-based incentive or other benefit plan program, agreement, policy or other arrangement, in each case, that, as of the Effective Time, is or has been maintained, sponsored, contributed to or entered into by Parent or any of its Affiliates for the benefit of the Service Providers or the Former Service Providers, or with respect to which Parent or any of its Affiliates has any Liability as of the Effective Time, other than the Employment Payments.

“Employment Payments” shall mean the cash payments set forth on Schedule 1.1 to the applicable individuals listed on Schedule 1.1 (other than any Waived Employment Payments), which shall be payable following execution of the applicable Service Provider Releases, and shall be subject to continued employment with the Parent Group as of immediately prior to Closing (as defined in the Merger Agreement).

-4-

---

“Environmental Law” shall mean any Law relating to pollution, protection or restoration of or prevention of harm to the environment or natural resources, including the use, handling, transportation, treatment, storage or Release of Hazardous Materials, or the protection of or prevention of harm to human health and safety.

“Environmental Liabilities” shall mean all Liabilities relating to, arising out of or resulting from any Hazardous Materials, Environmental Law or Contract relating to environmental, health or safety matters (including all removal, remediation or cleanup costs, investigatory costs, response costs, natural resources damages, property damages, personal injury damages, costs of compliance with any settlement, judgment or other determination of Liability and indemnity, contribution or similar obligations) and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith.

“Equipment” shall mean all furniture and other tangible personal property and fixtures.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Exchange Act” shall mean the U.S. Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder and published interpretations thereof.

“Force Majeure” shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, acts of terrorism, cyberattacks, embargoes, epidemics, pandemics (including COVID-19 and any variants thereof), wars, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any significant and prolonged failures in electrical or air conditioning equipment.

“Former Service Provider” means each director, officer, consultant, employee or other service provider whose employment or service with Parent and its Subsidiaries terminated prior to the Effective Time.

“Governmental Approvals” shall mean any Approvals or Notifications to be made to, or obtained from, any Governmental Authority.

“Governmental Authority” shall mean any federal, state, local or foreign government or political subdivision thereof, any transnational governmental organization or any court of competent jurisdiction, arbitral tribunal, administrative agency or commission or other governmental authority, official, arbitrator or instrumentality, domestic or foreign.

---

-5-

---

“Group” shall mean either the SpinCo Group or the Parent Group, as the context requires.

“Hazardous Materials” shall mean any chemical, material, substance, or waste pollutant, or contaminant that could result in Liability under, or that is prohibited, limited or regulated by or pursuant to, any Environmental Law, and any natural or artificial substance (whether solid, liquid or gas, noise, ion, vapor or electromagnetic) that could cause harm to human health or the environment, including gasoline or petroleum (including crude oil or any fraction thereof), petroleum products and byproducts, asbestos and asbestos-containing materials, lead or lead-containing paint or plumbing, urea formaldehyde foam insulation, electronic, medical or infectious wastes, polychlorinated biphenyls, per- and polyfluoroalkyl substances, 1-4-dioxane, radon gas, molds, radioactive substances, chlorofluorocarbons and all other ozone-depleting substances.

“Information” shall mean information, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, Contracts, instruments, surveys, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data; provided that “Information” shall not include Intellectual Property Rights or Information Technology.

“Information Statement” shall mean the information statement made available to the holders of Parent Shares in connection with the Distribution, as such information statement may be amended or supplemented from time to time prior to the Distribution.

“Information Technology” shall mean computers, hardware, software and software platforms, databases, websites, servers, routers, hubs, switches, circuits, networks, data communications lines and all other information technology infrastructure and equipment and all associated documentation and tangible embodiments of the foregoing.

“Insurance Proceeds” shall mean those monies:

- (a) received by an insured from an insurance carrier; or
- (b) paid by an insurance carrier on behalf of an insured;

in any such case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any out-of-pocket costs or expenses (including attorneys’ fees) or Taxes incurred in the collection thereof.

-6-

---

“Intellectual Property Rights” shall mean all worldwide intellectual property rights, including rights associated with the following: (i) trademarks, service marks, trade names, logos and other indicators of source or origin along with the goodwill associated therewith (“Trademarks”); (ii) domain names and social and mobile media identifiers; (iii) statutory invention registrations, registered designs and patents (“Patents”); (iv) copyrights (including copyrights in software as a work of authorship) (“Copyrights”); (v) trade secrets and rights in inventions, methods, processes, know-how and any other confidential information that derives independent economic value from not being known to other persons and (vi) all registrations and applications for the foregoing.

“IRS” shall mean the U.S. Internal Revenue Service.

“Law” shall mean any national, supranational, federal, state, provincial, local or similar law (including common law), statute, code, order, ordinance, rule, regulation, treaty (including any income tax treaty), license, permit, authorization, judgment, approval, consent, decree, injunction, binding judicial or administrative interpretation or other requirement, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

“Liabilities” shall mean all debts, guarantees, assurances, commitments, liabilities, responsibilities, Losses, remediation, deficiencies, damages, fines, settlements, sanctions, costs, interest and obligations of any nature or kind, whether accrued or fixed, absolute or contingent, matured or unmatured, asserted or unasserted, liquidated or unliquidated, foreseen or unforeseen, known or unknown, reserved or unreserved, or determined or determinable, including those arising under any Law, Action (including any Third-Party Claim), or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority, and those arising under any Contract, or any fines, damages or equitable relief that is imposed, in each case, including all costs and expenses relating thereto.

“Losses” shall mean actual losses (including any diminution in value), costs, damages, penalties and expenses (including legal and accounting fees and expenses and costs of investigation and litigation), whether or not involving a Third-Party Claim.

“NYSE American” shall mean the New York Stock Exchange American.

“Occurrence-Based Policies” shall mean occurrence-based Policies.

“Parent Business” shall mean all businesses, operations and activities conducted at any time prior to the Effective Time by Parent or any of its Subsidiaries (including as conducted through joint ventures, including Preferred Equity Joint Ventures), other than the SpinCo Business.

“Parent Group” shall mean Parent, the New LLC and each Person that is a Subsidiary (including, for the avoidance of doubt, any Subsidiary that is treated as a “disregarded entity” for U.S. federal income tax purposes or for purposes of any state, local or



foreign Tax law) of Parent or the New LLC (other than SpinCo and any other member of the SpinCo Group); provided that the Parent Group shall also include any Person that shall have merged or liquidated into Parent, the New LLC or any Subsidiary of Parent or the New LLC and any predecessor or successor to any Person otherwise described in this definition, including, without limitation, Badger Merger Sub LLC, as successor to Parent as a result of the Merger.

“Parent Licensed IP” means the Intellectual Property Rights (other than Trademarks or Registered IP) owned by Parent or any member of the Parent Group as of or immediately prior to the Effective Time that were used in connection with the operation of the SpinCo Business as of or immediately prior to the Effective Time.

---

-7-

---

“Parent LTIP” means Parent’s 2014 Equity Incentive Plan for Entities, as amended, and Parent’s 2014 Equity Incentive Plan for Individuals, as amended.

“Parent Restricted Stock Award” means an award of shares of restricted Parent Common Stock that is subject to vesting requirements and/or transfer restrictions granted under a Parent LTIP.

“Parent Shares” shall mean the shares of Class A Common Stock, \$0.01 par value per share, of Parent (the “Parent Common Shares”) and the shares of Class C Common Stock, \$0.01 par value per share, of Parent (the “Parent Class C Common Shares”). For the avoidance of doubt, Parent Shares shall include the Parent Restricted Stock Awards.

“Parties” shall mean Parent and SpinCo, or, solely in the case of Article IX and Article X, the parties to this Agreement.

“Partnership Agreement” shall mean the Second Amended and Restated Agreement of Limited Partnership of the OP, as amended, modified or supplemented from time to time in accordance with the Merger Agreement.

“Permits” shall mean permits, approvals, authorizations, consents, licenses, franchises, variances, exemptions, orders, registrations, clearances or certificates of or issued by any Governmental Authority.

“Person” shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity or any Governmental Authority and any permitted successors and assigns of such person.

“Policies” shall mean insurance policies and insurance Contracts of any kind (other than property insurance policies or Contracts), including excess and umbrella, commercial general liability, director and officer liability, fiduciary liability, cyber technology, professional liability, libel liability, employment practices liability, automobile, aircraft, marine, workers’ compensation and employers’ liability, employee dishonesty/crime/fidelity, foreign, bonds and self-insurance and captive insurance company arrangements, together with the rights, benefits, privileges and obligations thereunder.

“Preferred Equity Joint Ventures” shall mean those joint ventures set forth on Schedule 1.2.

“Prime Rate” shall mean the rate that Bloomberg displays as “Prime Rate by Country United States” or “Prime Rate By Country US-BB Comp” at <http://www.bloomberg.com/quote/PRIME:IND> or on a Bloomberg terminal at PRIMBB Index.

---

-8-

---

“Privileged Information” shall mean any information, in written, oral, electronic or other tangible or intangible forms, including without limitation any communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials prepared by attorneys or under their direction (including attorney work product), as to which a Party or any member of its Group would be entitled to assert or have asserted a privilege or other protection, including the attorney-client and work product privileges.

“Record Date” shall mean the close of business on the date to be determined by the Parent Board (without limiting Badger’s rights or Parent’s obligations pursuant to the Merger Agreement) as the record date for determining holders of Parent Shares entitled to receive SpinCo Shares pursuant to the Distribution.

“Record Holders” shall mean the holders of record of Parent Shares as of the Record Date.

“Registered IP” shall mean all United States, international or foreign (a) registered Patents and Patent applications, (b) registered Trademarks and applications to register Trademarks, (c) registered Copyrights and applications for Copyright registration, and (d) domain names.

“REIT” shall mean a real estate investment trust within the meaning of Sections 856 through 860 of the Code.

“Release” shall mean any release, spill, emission, discharge, leaking, pumping, pouring, dumping, injection, deposit, disposal, dispersal, leaching or migration into or through the indoor or outdoor environment (including ambient air, surface water, groundwater and surface or subsurface strata).

“Representatives” shall mean, with respect to any Person, any of such Person’s and such Person’s Affiliates’ and, in the case of the SpinCo Group, Bluerock Homes Manager, LLC’s, directors, officers, employees, agents, consultants, advisors, investment bankers, financing sources, accountants, attorneys or other representatives or authorized agents.

“SEC” shall mean the U.S. Securities and Exchange Commission.

“Security Interest” shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way or right-of-entry, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

“Service Provider” means each individual who is a director, officer, consultant, employee or other service provider of Parent or a Subsidiary of Parent as of immediately prior to the Effective Time.

“Service Provider Release” means the form of release attached as Exhibit A, which must be executed by the applicable individuals set forth on Schedule 1.1, in order for such individuals to receive the Employment Payments.

“SpinCo Articles of Incorporation” shall mean the Second Articles of Amendment and Restatement of SpinCo, substantially in the form of Exhibit B.

-9-

---

“SpinCo Balance Sheet” shall mean the pro forma combined balance sheet of the SpinCo Business, including any notes thereto, as of June 30, 2022, as presented in the Information Statement made available to the Record Holders.

“SpinCo Business” shall mean (a) Parent’s and its current and former Subsidiaries’ (including SpinCo’s) business, operations and activities (as conducted at any time prior to the Effective Time (including as conducted through joint ventures)) of investing in, owning, operating, developing and leasing single-family residential real estate properties (including build-to-rent properties), including the SpinCo Properties, and (b) any terminated, divested or discontinued businesses, operations and activities to the extent, at the time of termination, divestiture or discontinuation, related to the business, operations and activities described in the foregoing clause (a) as then conducted.

“SpinCo Bylaws” shall mean the Amended and Restated Bylaws of SpinCo, substantially in the form of Exhibit C.

“SpinCo Cash Amount” means an amount equal to \$185,700,000 minus, without duplication, (i) the amount of (A) any cash used or paid by Parent or any of its Subsidiaries (including SpinCo and its Subsidiaries) after the date of the Merger Agreement to acquire SpinCo Assets, but excluding amounts used to acquire SpinCo Assets to the extent funded with the proceeds of SpinCo Debt incurred after the date of the Merger Agreement, (B) cash used by Parent or any of its Subsidiaries (including SpinCo and its Subsidiaries) after the date of the Merger Agreement to pay any principal in respect of SpinCo Debt, (C) any cash paid in redemption of

Common Units (as defined in the Partnership Agreement) after the date of the Merger Agreement, (D) the product of (x) the aggregate number of Parent Common Shares issued after the date of the Merger Agreement in respect of the redemption of a number of Common Units (as defined in the Partnership Agreement) in excess of 940,567 Common Units (as defined in the Partnership Agreement) multiplied by (y) the Merger Consideration (as defined in the Merger Agreement), and (E) the SpinCo Cash Balance immediately prior to the contribution by Parent or distribution by SpinCo, as the case may be, pursuant to Section 2.12 (other than cash received by SpinCo or its Subsidiaries pursuant to the Reimbursement Obligations (as defined in the Merger Agreement)); and plus (ii) the amount of (A) the Waived Employment Payments, (B) any cash received by Parent or any of its Subsidiaries (including SpinCo and its Subsidiaries) after the date of the Merger Agreement in connection with the disposition or redemption of SpinCo Assets (including, for the avoidance of doubt, mezzanine or preferred investments that are SpinCo Assets), (C) any cash proceeds received in respect of SpinCo Debt incurred after the date of the Merger Agreement (including, for the avoidance of doubt, cash proceeds received by Parent or any of its Subsidiaries (including SpinCo and its Subsidiaries) after the date of the Merger Agreement derived from leveraging a SpinCo Asset), to the extent the proceeds thereof or cash received therefrom were not used to acquire SpinCo Assets, and (D) SpinCo Net Levered Cash Flow; provided that references to “cash used” or “cash paid” as described herein shall include the amount of uncleared checks and drafts issued by Parent or any of its Subsidiaries (including SpinCo and its Subsidiaries) and references to “cash received” or “cash proceeds received” shall include the amount of checks received but not deposited by Parent or any of its Subsidiaries; provided, further, that the SpinCo Cash Amount shall be calculated in accordance with GAAP.

-10-

---

“SpinCo Cash Balance” shall mean, without duplication, (i) all cash, cash equivalents and marketable securities of SpinCo and its Subsidiaries (including restricted cash but excluding programmatic cash and security deposits) (this clause (i), “Cash and Cash Equivalents”), *plus* (ii) checks received but not deposited by SpinCo or any of its Subsidiaries *minus* uncleared checks and drafts issued by SpinCo or any of its Subsidiaries, in each case, as of the relevant time of determination and calculated in accordance with GAAP. For the avoidance of doubt, the amount of cash equal to the Employment Payments shall not be deemed to be included in the SpinCo Cash Balance and shall not otherwise reduce the SpinCo Cash Amount.

“SpinCo Contracts” shall mean the following Contracts to which either Party or any member of its Group is a party or by which it or any member of its Group or any of their respective Assets is bound, in each case, entered into prior to the Effective Time, whether or not in writing; provided that SpinCo Contracts shall not include any Contract that is expressly retained by Parent or any member of the Parent Group from and after the Effective Time pursuant to any provision of this Agreement or any Ancillary Agreement:

- (a) any leases relating primarily to any SpinCo Property pursuant to which a Third Party leases all or any portion of such SpinCo Property;
- (b) any joint venture, shareholder, equityholder, partnership or similar agreements with any Third Party relating primarily to any SpinCo Property, including those set forth on Schedule 1.3(b);
- (c) any customer, distribution, supply, vendor, or property management Contract with a Third Party primarily related to the SpinCo Business;
- (d) any Intellectual Property Rights or Information Technology license agreements exclusively related to the SpinCo Business;
- (e) any guarantee, indemnity, representation, covenant, warranty or other Liability of either Party or any member of its Group in respect of any other SpinCo Contract or any SpinCo Liability or that is otherwise primarily related to the SpinCo Business, including those set forth on Schedule 1.3(e);
- (f) any Contract that is expressly contemplated pursuant to this Agreement or any of the Ancillary Agreements to be assigned to SpinCo or any member of the SpinCo Group;
- (g) any interest rate, currency, commodity or other swap, collar, cap or other hedging or similar agreements or arrangements exclusively related to the SpinCo Business, including those set forth on Schedule 1.3(g);

(h) any Contract, guarantee, note, mortgage, bond, debenture or other agreement providing for or relating to SpinCo Debt, whether secured or unsecured, including those set forth on Schedule 1.3(h);

-11-

---

(i) any other Contract primarily related to the SpinCo Business or SpinCo Assets that are of a type not described elsewhere in this definition of “SpinCo Contract”; and

(j) any Contracts or settlements set forth on Schedule 1.3(j), including the right to recover any amounts under such Contracts or settlements.

“SpinCo Debt” shall mean (i) the principal value, prepayment and redemption premiums and penalties and other breakage costs (if any), unpaid fees and other monetary obligations (including interest) in respect of any indebtedness for borrowed money, including any such obligations evidenced by bonds, debentures, notes, mortgages, other debt securities or similar instruments, (ii) any indebtedness arising under any capital leases, whether short term or long term, (iii) all liabilities secured by any lien on any SpinCo Assets, (iv) all liabilities under any interest rate, currency, commodity or other swap, collar, cap or other hedging or similar agreements or arrangements, (v) all interest, fees and other expenses owed with respect to indebtedness described in the foregoing clauses (i) through (iv), and (vi) without duplication, all guarantees of indebtedness referred to in the foregoing clauses (i) through (v), in each case, to the extent relating to the SpinCo Business, that is for the benefit of a member of the SpinCo Group.

“SpinCo Designees” shall mean any members of the SpinCo Group that are designated by SpinCo to receive SpinCo Assets or SpinCo Liabilities.

“SpinCo Equipment” shall mean all Equipment owned or licensed by either Party or any member of its Group that is primarily used or primarily held for use in the SpinCo Business as of the Effective Time and all Equipment on or in the 32nd Floor as of the Effective Time.

“SpinCo Group” shall mean (a) prior to the Effective Time, SpinCo, the OP and each Person that will be a Subsidiary (including, for the avoidance of doubt, any Subsidiary that is treated as a “disregarded entity” for U.S. federal income tax purposes or for purposes of any state, local or foreign Tax law) of SpinCo or the OP as of immediately after the Effective Time, even if, prior to the Effective Time, such Person is not a Subsidiary of SpinCo; and (b) at and after the Effective Time, SpinCo, the OP and each Person that is a Subsidiary (including, for the avoidance of doubt, any Subsidiary that is treated as a “disregarded entity” for U.S. federal income tax purposes or for purposes of any state, local or foreign Tax law) of SpinCo or the OP; provided, that the SpinCo Group shall also include any Person that shall have merged or liquidated into SpinCo, the OP or any such Subsidiary and any predecessor or successor to any Person otherwise described in this definition other than any member of the Parent Group.

“SpinCo Intellectual Property” shall mean the Intellectual Property Rights (other than registered Patents, registered Trademarks and other Registered IP) owned by either Party or any of the members of its Group as of the Effective Time that are primarily used or primarily held for use in the SpinCo Business.

“SpinCo IT Assets” shall mean all Information Technology owned by either Party or any member of its Group as of immediately prior to the Effective Time that is primarily used or primarily held for use in the SpinCo Business.

-12-

---

“SpinCo Licensed IP” shall mean the Intellectual Property Rights (other than Trademarks or Registered IP) owned by SpinCo or any member of the SpinCo Group as of or immediately prior to the Effective Time that were used in the operation of the Parent Business as of or immediately prior to the Effective Time.

“SpinCo Net Levered Cash Flow” shall mean the net levered cash flow attributable to the operation of the SpinCo Business after the date of the Merger Agreement (taking into account capital expenditures and interest expense, but excluding amounts already taken into account in clauses (i)(A), (i)(B) or (ii)(B) of the SpinCo Cash Amount definition).

“SpinCo Permits” shall mean all Permits owned or licensed by either Party or any member of its Group that are primarily used or primarily held for use in the SpinCo Business as of the Effective Time.

“SpinCo Properties” shall mean the properties set forth on Schedule 1.5.

“SpinCo Registration Statement” shall mean the registration statement on Form 10 filed with the SEC relating to the Distribution, as amended or supplemented from time to time.

“SpinCo Shares” shall mean the shares of Class A Common Stock, \$0.01 par value per share (the “SpinCo Common Shares”), of SpinCo and the shares of Class C Common Stock, \$0.01 par value per share, of SpinCo (the “SpinCo Class C Common Shares”).

“Sublease” shall mean the Sublease, dated as of February 15, 2019, between AllianceBernstein L.P., as Sublandlord, and Bluerock Real Estate, L.L.C. and Parent, collectively, as Subtenant, for a portion of the 32nd Floor, 1345 Avenue of the Americas, New York, New York (the “32nd Floor”).

“Subsidiary” shall mean, with respect to any Person, any corporation, partnership, limited liability company, joint venture, association, trust or other form of legal entity of which (a) such first Person directly or indirectly owns or controls a majority of the securities or other interests having by their terms ordinary voting power or otherwise has the power to vote, directly or indirectly, sufficient securities to elect a majority of the board of directors or others performing similar functions or (b) of which such first Person is a general partner or managing member.

“Tangible Information” shall mean information that is contained in written, electronic or other tangible forms.

“Tax” shall have the meaning set forth in the Tax Matters Agreement.

“Taxable REIT Subsidiary” shall mean a “taxable REIT subsidiary” within the meaning of Section 856(l) of the Code.

“Tax Matters Agreement” shall mean the Tax Matters Agreement to be entered into by and between Parent and SpinCo and/or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

---

-13-

“Tax Return” shall have the meaning set forth in the Tax Matters Agreement.

“Third Party” shall mean any Person other than Badger or the Parties or any members of their respective Groups.

“Transfer Taxes” shall have the meaning set forth in the Tax Matters Agreement.

“Waived Employment Payments” shall mean the aggregate amount of the cash payments set forth under the heading “Waived Employment Payments” on Schedule 1.1 waived in whole or in part by the applicable individuals listed on Schedule 1.1 in writing, if any.

---

-14-

In addition, for the purpose of this Agreement, the following terms shall have the meanings set forth in the Sections indicated:

**Term**  
Agreement

**Section**  
Preamble

Badger	Preamble
Bankruptcy Code	5.6(g)
Bluerock Trademark	1.1
Cash and Cash Equivalents	1.1
Cash Statement	2.12
Chosen Courts	10.2(a)
Copyrights	Definition of Intellectual Property Rights
CPR	7.2
Delayed Parent Asset	2.4(h)
Delayed Parent Liability	2.4(h)
Delayed SpinCo Asset	2.4(c)
Delayed SpinCo Liability	2.4(c)
Dispute	7.1
Distribution	Recitals
Estimated SpinCo Cash Amount	2.12
Indemnifying Party	4.4(a)
Indemnatee	4.4(a)
Indemnity Payment	4.4(a)
Intended Tax Treatment	Recitals
Internal Restructuring	Recitals
Licensee	5.6(f)
Licensor	5.6(f)
Linked	2.9(a)
Mediation Request	7.2
Merger	Recitals
Merger Agreement	Recitals
New LLC	Preamble
Officer Negotiation Request	7.1
OP	Preamble
Parent	Preamble
Parent Accounts	2.9(a)
Parent Assets	2.2(b)
Parent Board	Recitals
Parent Indemnitees	4.2
Parent Indemnity Payment	4.11(b)
Parent Liabilities	2.3(b)
Parent Non-Recourse Parties	4.1(a)
Patents.	Definition of Intellectual Property Rights
Pro Forma SpinCo Balance Sheet	2.2(a)
Procedure	7.2
Proceedings	10.2(a)
Qualifying Income	4.11(a)

<b>Term</b>	<b>Section</b>
Restricted SpinCo Common Shares	3.4(b)
Restructuring Documents	2.1(f)
Separation	Recitals
Separation Step Plan	2.1(a)
Shared Contract	2.8(a)
Specified REIT Requirements	4.11(a)
SpinCo	Preamble
SpinCo Accounts	2.9(a)
SpinCo Assets	2.2(a)

SpinCo Indemnitees	4.3
SpinCo Indemnity Payment	4.11(a)
SpinCo Liabilities	2.3(a)
SpinCo Non-Recourse Parties	4.1(b)
Third Party Proceeds	4.4(a)
Third-Party Claim	4.5(a)
Transfer	2.1(a)(i)
Transfer Documents	2.1(b)
Unreleased Parent Liability	2.5(b)(ii)
Unreleased SpinCo Liability	2.5(a)(ii)

ARTICLE II  
THE SEPARATION

2.1 Transfer of Assets and Assumption of Liabilities.

(a) At or prior to the Effective Time, but in any case prior to the Distribution, in accordance with the plan and structure set forth on Schedule 2.1(a) (the “Separation Step Plan”):

(i) *Transfer and Assignment of SpinCo Assets.* Parent shall, and shall cause the applicable members of its Group to, contribute, assign, transfer, convey and deliver (“Transfer”) to SpinCo, or the applicable SpinCo Designees, or take such steps as may be necessary for SpinCo or such SpinCo Designees to succeed to, and SpinCo or such SpinCo Designees shall accept from Parent and the applicable members of the Parent Group, all of Parent’s and such Parent Group member’s respective right, title and interest in and to all of the SpinCo Assets held by Parent or any member of the Parent Group;

-16-

---

(ii) *Acceptance and Assumption of SpinCo Liabilities.* SpinCo and the applicable SpinCo Designees shall accept, assume and agree faithfully to perform, discharge and fulfill, or succeed to, all of the SpinCo Liabilities held by Parent or any member of the Parent Group in accordance with their respective terms. SpinCo and such SpinCo Designees shall be responsible for all SpinCo Liabilities in accordance with their respective terms, regardless of when or where such SpinCo Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, and regardless of where or against whom such SpinCo Liabilities are asserted or determined (including any SpinCo Liabilities arising out of claims made by Parent’s or SpinCo’s respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates;

(iii) *Transfer and Assignment of Parent Assets.* SpinCo and the applicable members of the SpinCo Group shall Transfer to Parent, New LLC or certain members of the Parent Group designated by Badger (provided, for the avoidance of doubt, that any such designation must be consistent with the Separation Step Plan and the Intended Tax Treatment), or take such steps as may be necessary for Parent or such members of the Parent Group to succeed to, and Parent or such other members of the Parent Group shall accept from SpinCo and such members of the SpinCo Group, all of SpinCo’s and such members’ respective right, title and interest in and to all Parent Assets held by SpinCo or any member of the SpinCo Group (it being understood and agreed that if any Parent Asset shall be held by an entity the equity interests of which will be transferred to a member of the Parent Group, such Parent Asset shall be deemed Transferred to Parent as a result of the transfer of all of the equity interests in such entity that are held by SpinCo or the applicable members of the SpinCo Group from SpinCo or the applicable members of the SpinCo Group to Parent or the applicable member of the Parent Group designated by Parent); and

(iv) *Acceptance and Assumption of Parent Liabilities.* Parent, New LLC and the members of the Parent Group designated by Badger (provided, for the avoidance of doubt, that any such designation must be consistent with the Separation Step Plan and the Intended Tax Treatment) shall accept and assume and agree faithfully to perform, discharge and fulfill, or succeed to, all of the Parent Liabilities held by SpinCo or any member of the SpinCo Group in accordance with their

respective terms. Parent and the applicable members of the Parent Group shall be responsible for all Parent Liabilities in accordance with their respective terms (it being understood and agreed that if any Parent Liability is a Liability of an entity the equity interests of which will be transferred to a member of the Parent Group, such Parent Liability shall be deemed assumed by Parent or the applicable member of the Parent Group designated by Parent as a result of the transfer of all of the equity interests in such entity to Parent or the applicable member of the Parent Group designated by Parent), regardless of when or where such Parent Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, and regardless of where or against whom such Parent Liabilities are asserted or determined (including any such Parent Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates.

---

-17-

---

(b) *Transfer Documents.* In furtherance of the Transfer of the Assets and the assumption of the Liabilities in accordance with Section 2.1(a), (i) each Party shall execute and deliver, and shall cause the applicable members of its Group to execute and deliver, to the other Party, such bills of sale, quitclaim deeds, stock powers, certificates of title, assignments of contracts and other instruments of Transfer as and to the extent necessary to evidence the Transfer of all of such Party's and the applicable members of its Group's right, title and interest in and to such Assets to the other Party and the applicable members of its Group in accordance with Section 2.1(a), and (ii) each Party shall execute and deliver, and shall cause the applicable members of its Group to execute and deliver, to the other Party, such assumptions of contracts and other instruments of assumption as and to the extent necessary to evidence the valid and effective assumption of the Liabilities by such Party and the applicable members of its Group in accordance with Section 2.1(a), in each case of clauses (i) and (ii), which documents shall be reasonably acceptable to Badger and the Parties. All of the foregoing documents contemplated by this Section 2.1(b) shall be referred to collectively herein as the "Transfer Documents."

(c) *Misallocations.* Subject to Section 2.4, in the event that at any time or from time to time (whether prior to, at or after the Effective Time), a Party discovers that it (or any member of such Party's Group) has received or otherwise possesses any Asset that is allocated to the other Party (or any member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party shall as promptly as reasonably practicable Transfer, or cause to be Transferred, such Asset to the Party so entitled thereto (or to any member of such Party's Group) for no further consideration and without reimbursement or set-off, and such Party (or member of such Party's Group) shall accept such Asset. Prior to any such Transfer, the Party (or member of such Party's Group) receiving or possessing such Asset shall hold such Asset in trust for the use and benefit of such other Party (or member of such Party's Group) (at the expense of the Party entitled thereto). In the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party hereto (or any member of such Party's Group) shall receive or otherwise assume any Liability that is allocated to the other Party (or any member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party shall promptly Transfer, or cause to be Transferred, such Liability to the Party responsible therefor (or to any member of such Party's Group), and such Party (or member of such Party's Group) shall accept, assume and agree to faithfully perform such Liability for no further consideration and without reimbursement or set-off. If reasonably practicable and permitted under applicable Law, any such Transfer pursuant to this Section 2.1(c) may be effected by rescission of the applicable portion of a Transfer Document as may be agreed by the relevant Parties.

---

-18-

---

(d) *Mail and Other Communications.* After the Effective Time, each Party (or any member of its Group or their respective Affiliates) may receive mail, packages and other communications properly belonging to the other Party (or any member of its Group). Accordingly, at all times after the Effective Time, each Party is hereby authorized to receive and, to the extent reasonably necessary to identify the proper recipient in accordance with this Section 2.1(d), open (acting solely as agent for the other Party) all mail, packages and other communications received by such Party (or member of its Group or its or their Affiliates) that belongs to such other Party (or member of such other Party's Group), and to the extent that they do not relate to the business of the receiving Party, the receiving Party shall as promptly as reasonably practicable deliver or cause to be delivered such mail, packages or other communications, other than any mass mailings or other similar communications (or, in case the same also relates to the business of the receiving Party, copies thereof) to such other Party as provided for in Section 10.5; provided that, if a Party (or any member of its Group



or any of its or their respective Affiliates) receives any claim or demand against any other Party (or any member of such other Party's Group), or any notice or other communication regarding any Action involving any other Party (or any member of such other Party's Group), such Party shall and shall cause the other members of its Group and its and their respective Affiliates to, as promptly as practicable (and, in any event, use commercially reasonable efforts to do so within fifteen (15) days after receipt thereof) notify such other Party (including such other Party's legal department) of the receipt of such claim, demand, notice or other communication, and shall promptly deliver such claim, demand, notice or other communication (or, in case the same also relates to the business of the receiving Party or another Party, copies thereof) to such other Party; provided, however, that the failure to provide such notice shall not constitute a breach of this Section 2.1(d) except to the extent that any such Party shall have been actually prejudiced as a result of such failure. The provisions of this Section 2.1(d) are not intended to, and shall not, be deemed to constitute an authorization by either Party or any member of its Group (or any of their Affiliates) to (i) permit the other to accept service of process on its behalf and no Party is or shall be deemed to be the agent of the other Party, any other member of its Group or any of their respective Affiliates for service of process purposes or (ii) waive any rights or privileges in respect of any such mail, packages or other communications or the information contained therein.

(e) *Waiver of Bulk-Sale and Bulk-Transfer Laws.* Each of SpinCo and the OP hereby waives compliance by each and every member of the Parent Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the SpinCo Assets to any member of the SpinCo Group. Each of Parent and the New LLC hereby waives compliance by each and every member of the SpinCo Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the Parent Assets to any member of the Parent Group.

(f) *Separation Step Plan.* Prior to the Effective Time, to the extent not already completed, the Parties shall, and shall cause the respective members of their Groups to, undertake the Internal Restructuring in accordance with the Separation Step Plan, pursuant to documentation that is reasonably acceptable to Badger (the "Restructuring Documents").

## 2.2 SpinCo Assets; Parent Assets.

(a) *SpinCo Assets.* For purposes of this Agreement, "SpinCo Assets" shall mean:

(i) all issued and outstanding capital stock or other equity interests of the Subsidiaries of Parent or SpinCo set forth on Schedule 2.2(a)(i) (the "SpinCo Transferred Entities");

-19-

---

(ii) all interests in the SpinCo Properties of whatever nature, including easements, whether as owner, mortgagee, lender or holder of a Security Interest in the SpinCo Properties, lessor, sublessor, lessee, sublessee or otherwise, and including all buildings located thereon, and all associated parking areas, fixtures and all other improvements located thereon, and including all rights, benefits, privileges, tenements, hereditaments, covenants, conditions, restrictions, easements and other appurtenances on any SpinCo Property or otherwise appertaining to or benefitting any SpinCo Property and/or the improvements situated thereon, including all mineral rights, development rights, air and water rights, subsurface rights, vested rights entitling, or prospective rights which may entitle, the owner of any SpinCo Property to related easements, land use rights, air rights, viewshed rights, density credits, water, sewer, electrical and other utility service, credits and/or rebates, strips and gores and any land lying in the bed of any street, road, alley, open or proposed, adjoining any SpinCo Property, and all easements, rights of way and other appurtenances used or connected with the beneficial use or enjoyment of any SpinCo Property;

(iii) all Assets (other than Cash and Cash Equivalents) of either Party or any members of its Group included or reflected as Assets of the SpinCo Group on the SpinCo Balance Sheet, subject to any dispositions of such Assets subsequent to the date of the SpinCo Balance Sheet;

(iv) all Assets (other than Cash and Cash Equivalents) of either Party or any of the members of its Group as of the Effective Time that were acquired since the date of the SpinCo Balance Sheet and that are of a nature or type that would have resulted in such Assets being included as Assets of the SpinCo Group on a pro forma combined balance sheet of the SpinCo Business or any notes thereto as of the Effective Time, including any inventory (were such balance sheet and notes

prepared on a basis consistent with the SpinCo Balance Sheet) (such balance sheet, together with the notes thereto, the “Pro Forma SpinCo Balance Sheet”);

(v) all Assets of either Party or any of the members of its Group as of the Effective Time that are expressly provided by this Agreement or any Ancillary Agreement as Assets to be transferred to SpinCo or any other member of the SpinCo Group;

(vi) all SpinCo Contracts and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(vii) all SpinCo Intellectual Property as of the Effective Time, including any embodiments thereof, any goodwill appurtenant to any Trademarks included in the SpinCo Intellectual Property, and the right to seek, recover and retain damages for infringement of any SpinCo Intellectual Property as of the Effective Time;

(viii) all SpinCo IT Assets as of the Effective Time;

---

-20-

---

(ix) all SpinCo Permits and SpinCo Equipment as of the Effective Time and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(x) all Occurrence-Based Policies of either Party or any of the members of its Group as of the Effective Time and all property insurance policies or Contracts of either Party or any of the members of its Group, in each case, to the extent such Occurrence-Based Policies or Contracts provided coverage for the SpinCo Properties as of the Effective Time, and, subject to Section 5.1, all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(xi) subject to Sections 6.1 through 6.6 of this Agreement, (A) all rights, interests and claims of either Party or any of the members of its Group as of the Effective Time with respect to Information that is solely or primarily related to the SpinCo Business, the SpinCo Assets, the SpinCo Liabilities or the members of the SpinCo Group and (B) a non-exclusive right to all Information of either Party or any of the members of its Group as of the Effective Time that is related to, but not solely or primarily related to, the SpinCo Business, the SpinCo Assets, the SpinCo Liabilities or the members of the SpinCo Group;

(xii) cash in an amount equal to the SpinCo Cash Balance and the SpinCo Cash Amount to the extent a positive number and as determined in accordance with Section 2.12;

(xiii) any and all Assets with respect to any Employee Benefit Plan; and

(xiv) all other Assets of either Party or any of the members of its Group as of the Effective Time that are primarily related to, used or primarily held for use in the SpinCo Business to the extent the category of such asset is not already covered by any of the foregoing clauses of this Section 2.2(a).

Notwithstanding the foregoing, the SpinCo Assets shall not in any event include any Asset referred to in clauses (i) through (viii) of Section 2.2(b).

(b) *Parent Assets*. For the purposes of this Agreement, “Parent Assets” shall mean all Assets of either Party or the members of its Group as of the Effective Time, other than the SpinCo Assets, it being understood that, without limiting the generality of the foregoing, the Parent Assets shall include:

(i) all issued and outstanding capital stock or other equity interests of any Person, other than the SpinCo Transferred Entities;

(ii) all Assets that are expressly provided by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be retained by Parent or any other member of the Parent Group;

- (iii) all Contracts of either Party or any of the members of its Group as of the Effective Time other than the SpinCo Contracts;
- (iv) all Intellectual Property Rights owned by either Party or any of the members of its Group as of the Effective Time other than SpinCo Intellectual Property;
- (v) all Information Technology of either Party or any of the members of its Group as of the Effective Time other than SpinCo IT Assets;
- (vi) all rights, interests and claims of either Party or any of the members of its Group as of the Effective Time with respect to Information other than Information that is primarily used or primarily held for use in the SpinCo Business;
- (vii) all Cash and Cash Equivalents of either Party or any of the members of its Group, other than the SpinCo Cash Balance and the SpinCo Cash Amount to the extent a positive number and determined pursuant to Section 2.12; and
- (viii) all Permits and Equipment of either Party or any of the members of its Group as of the Effective Time other than the SpinCo Permits and the SpinCo Equipment.

### 2.3 SpinCo Liabilities; Parent Liabilities.

- (a) *SpinCo Liabilities.* For the purposes of this Agreement, “SpinCo Liabilities” shall mean the following Liabilities of either Party or any of the members of its Group, whether such Liabilities arose or are asserted before, at or after the Effective Time:
  - (i) all Liabilities included or reflected as liabilities of SpinCo or the members of the SpinCo Group on the SpinCo Balance Sheet, subject to any discharge of such Liabilities subsequent to the date of the SpinCo Balance Sheet;
  - (ii) all Liabilities in existence as of the Effective Time that are of a nature or type that would have resulted in such Liabilities being included or reflected as liabilities of the SpinCo Business on the Pro Forma SpinCo Balance Sheet;
  - (iii) all Liabilities, including any Environmental Liabilities, to the extent relating to, arising out of or resulting from the SpinCo Business or a SpinCo Asset (including all Liabilities to the extent relating to Bluerock REIT Operator, LLC and all Liabilities to the extent relating to SpinCo Debt);
  - (iv) any and all Liabilities that are expressly provided by this Agreement or any Ancillary Agreement as Liabilities to be assumed by SpinCo or any other member of the SpinCo Group, including the portion of Liabilities relating to Transaction Litigation that are allocated to SpinCo pursuant to Section 8.4 and the obligations of members of the SpinCo Group hereunder and under any of the Ancillary Agreements;

- (v) all Liabilities arising out of claims made by any Third Party (including Parent’s or SpinCo’s respective directors, officers, shareholders, employees and agents) against any member of the Parent Group or the SpinCo Group to the extent relating to the SpinCo Business (including all SpinCo Debt) or a SpinCo Asset, other than any Liabilities otherwise explicitly allocated to Parent or any member of the Parent Group pursuant to this Agreement or any Ancillary Agreement;

(vi) all Liabilities to the extent relating to the employment, service, termination of employment or termination of service of the Service Providers and Former Service Providers (other than pursuant to Section 3.3 of the Merger Agreement and the Employment Payments) and relating to the vesting of the Restricted SpinCo Common Shares;

(vii) all Liabilities to the extent relating to the Employee Benefit Plans (other than pursuant to Section 3.3 of the Merger Agreement); and

(viii) the Waived Employment Payments.

provided that, notwithstanding the foregoing, the Parties agree that the Liabilities set forth on Schedule 2.3(b) and any Liabilities of any member of the Parent Group under this Agreement or the Ancillary Agreements shall not be SpinCo Liabilities but instead shall be Parent Liabilities.

(b) *Parent Liabilities.* For the purposes of this Agreement, “Parent Liabilities” shall mean (i) all Liabilities of either Party or the members of its Group as of the Effective Time, in each case that are not SpinCo Liabilities, including the portion of Liabilities relating to Transaction Litigation that are allocated to Parent pursuant to Section 8.4 and any and all Liabilities set forth on Schedule 2.3(b), (ii) all Liabilities arising out of claims made by any Third Party (including Parent’s or SpinCo’s respective directors, officers, shareholders, employees and agents) against any member of the Parent Group or the SpinCo Group to the extent relating to the Parent Business or the Parent Assets, other than any Liabilities otherwise explicitly allocated to SpinCo or any member of the SpinCo Group pursuant to this Agreement or any Ancillary Agreement, and (iii) the Employment Payments.

## 2.4 Approvals and Notifications.

(a) *Approvals and Notifications for SpinCo Assets.* To the extent that the Transfer of any SpinCo Asset, the assumption of any SpinCo Liability, the Separation, or the Distribution requires any Approvals or Notifications, the Parties shall use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that none of Parent, SpinCo nor any member of their respective Groups shall be obligated to (and, without the prior written consent of Badger, no member of the Parent Group shall) pay or commit to pay such Person whose Approval or Notification is required any cash or other consideration, make any commitment or incur any Liability.

-23-

---

(b) *Delayed SpinCo Transfers.* If and to the extent that the valid, complete and perfected Transfer to the SpinCo Group of any SpinCo Asset or assumption by the SpinCo Group of any SpinCo Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approvals or Notifications that have not been obtained or made by the Effective Time then, unless the Parties and Badger mutually shall otherwise determine, the Transfer to the SpinCo Group of such SpinCo Assets or the assumption by the SpinCo Group of such SpinCo Liabilities, as the case may be, shall be automatically deemed deferred and any such purported Transfer or assumption shall be null and void until such time as all legal impediments are removed or such Approvals or Notifications have been obtained or made. Notwithstanding the foregoing, any such SpinCo Assets or SpinCo Liabilities shall continue to constitute SpinCo Assets and SpinCo Liabilities for all other purposes of this Agreement.

(c) *Treatment of Delayed SpinCo Assets and Delayed SpinCo Liabilities.* If any Transfer of any SpinCo Asset (or a portion thereof) or any assumption of any SpinCo Liability (or a portion thereof) intended to be Transferred or assumed hereunder, as the case may be, is not consummated at or prior to the Effective Time, whether as a result of the provisions of Section 2.4(b) or for any other reason (any such SpinCo Asset (or a portion thereof), a “Delayed SpinCo Asset” and any such SpinCo Liability (or a portion thereof), a “Delayed SpinCo Liability”), then, insofar as reasonably possible and subject to applicable Law, (i) the member of the Parent Group retaining such Delayed SpinCo Asset shall hold such Delayed SpinCo Asset in trust for the use and benefit of the member of the SpinCo Group entitled thereto (at the expense of the member of the SpinCo Group entitled thereto) and (ii) SpinCo shall cause the applicable member of its Group to pay or reimburse the member of the Parent Group retaining such Delayed SpinCo Liability for all amounts paid or incurred by it in connection with the retention of such Delayed SpinCo Liability and perform any Liabilities in the place of the member of the Parent Group retaining such Delayed SpinCo Liability to the extent such performance is reasonably practicable, permitted under applicable Law and does not result in a breach or default (or give rise to any termination rights, penalties or other remedies for the benefit of any counterparty) under any applicable Contract of the Parent Group. In addition, the member of the Parent Group retaining such Delayed SpinCo Asset or such Delayed SpinCo Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed SpinCo Asset or Delayed SpinCo Liability in the ordinary course of business

and take such other actions as may be reasonably requested by the member of the SpinCo Group to which such Delayed SpinCo Asset is to be Transferred, or which will assume such Delayed SpinCo Liability, as the case may be, in order to place such member of the SpinCo Group in a substantially similar position as if such Delayed SpinCo Asset or Delayed SpinCo Liability had been Transferred or assumed as contemplated hereby and so that the benefits and burdens relating to such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time to the SpinCo Group; provided that notwithstanding anything to the contrary in this Section 2.4(c), no member of the Parent Group shall be obligated to extend, renew or otherwise cause a Contract or other obligation to remain in effect beyond the term thereof in effect as of the Distribution Date.

(d) *Transfer of Delayed SpinCo Assets and Delayed SpinCo Liabilities.* If and when the Approvals or Notifications, the absence of which caused the deferral of Transfer of any Delayed SpinCo Asset or the deferral of assumption of any Delayed SpinCo Liability pursuant to Section 2.4(b), are obtained or made, and, if and when any other legal impediments to the Transfer of any Delayed SpinCo Asset or the assumption of any Delayed SpinCo Liability have been removed, the Transfer of the applicable Delayed SpinCo Asset or the assumption of the applicable Delayed SpinCo Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement as promptly as reasonably practicable for no further consideration and without set-off.

---

-24-

---

(e) *Costs for Delayed SpinCo Assets and Delayed SpinCo Liabilities.* Any member of the Parent Group retaining a Delayed SpinCo Asset or Delayed SpinCo Liability due to the deferral of the Transfer of such Delayed SpinCo Asset or the deferral of the assumption of such Delayed SpinCo Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money with respect to such Delayed SpinCo Asset or Delayed SpinCo Liability, in each case unless the necessary funds are advanced (or otherwise made available) by SpinCo or the member of the SpinCo Group entitled to the Delayed SpinCo Asset or Delayed SpinCo Liability, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by SpinCo or the member of the SpinCo Group entitled to such Delayed SpinCo Asset or Delayed SpinCo Liability.

(f) *Approvals and Notifications for Parent Assets.* To the extent that the Transfer of any Parent Asset, the assumption of any Parent Liability, the Separation or the Distribution requires any Approvals or Notifications, the Parties shall use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that (without limiting the rights of Badger or the obligations of Parent under the Merger Agreement) neither Parent, SpinCo nor any member of their respective Groups shall be obligated to (and, without the prior written consent of Badger, no member of the Parent Group shall) pay or commit to pay such Person whose Approval or Notification is required any cash or other consideration, make any commitment or incur any Liability.

(g) *Delayed Parent Transfers.* If and to the extent that the valid, complete and perfected Transfer to the Parent Group of any Parent Asset or assumption by the Parent Group of any Parent Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approvals or Notifications that have not been obtained or made by the Effective Time then, unless the Parties and Badger mutually shall otherwise determine, the Transfer to the Parent Group of such Parent Assets or the assumption by the Parent Group of such Parent Liabilities, as the case may be, shall be automatically deemed deferred and any such purported Transfer or assumption shall be null and void until such time as all legal impediments are removed or such Approvals or Notifications have been obtained or made. Notwithstanding the foregoing, any such Parent Assets or Parent Liabilities shall continue to constitute Parent Assets and Parent Liabilities for all other purposes of this Agreement.

---

-25-

---

(h) *Treatment of Delayed Parent Assets and Delayed Parent Liabilities.* If any Transfer of any Parent Asset (or a portion thereof) or any assumption of any Parent Liability (or a portion thereof) intended to be Transferred or assumed hereunder, as the case may be, is not consummated at or prior to the Effective Time, whether as a result of the provisions of Section 2.4(g) or for any other reason (any such Parent Asset (or a portion thereof), a "Delayed Parent Asset" and any such Parent Liability (or a portion thereof), a

“Delayed Parent Liability”), then, insofar as reasonably possible and subject to applicable Law, (i) the member of the SpinCo Group retaining such Delayed Parent Asset shall hold such Delayed Parent Asset in trust for the use and benefit of the member of the Parent Group entitled thereto (at the expense of the member of the Parent Group entitled thereto) and (ii) Parent shall cause the applicable member of its Group to pay or reimburse the member of the SpinCo Group retaining such Delayed Parent Liability for all amounts paid or incurred by it in connection with the retention of such Delayed Parent Liability and perform any Liabilities in the place of the member of the SpinCo Group retaining such Delayed Parent Liability to the extent such performance is reasonably practicable, permitted under applicable Law and does not result in a breach or default (or give rise to any termination rights, penalties or other remedies for the benefit of any counterparty) under any applicable Contract of the SpinCo Group. In addition, the member of the SpinCo Group retaining such Delayed Parent Asset or such Delayed Parent Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed Parent Asset or Delayed Parent Liability in the ordinary course of business and take such other actions as may be reasonably requested by the member of the Parent Group to which such Delayed Parent Asset is to be Transferred, or which will assume such Delayed Parent Liability, as the case may be, in order to place such member of the Parent Group in a substantially similar position as if such Delayed Parent Asset or Delayed Parent Liability had been Transferred or assumed as contemplated hereby and so that the benefits and burdens relating to such Delayed Parent Asset or Delayed Parent Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed Parent Asset or Delayed Parent Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time to the Parent Group; provided that notwithstanding anything to the contrary in this Section 2.4(h), no member of the SpinCo Group shall be obligated to extend, renew or otherwise cause a Contract or other obligation to remain in effect beyond the term thereof in effect as of the Distribution Date.

(i) *Transfer of Delayed Parent Assets and Delayed Parent Liabilities.* If and when the Approvals or Notifications, the absence of which caused the deferral of Transfer of any Delayed Parent Asset or the deferral of assumption of any Delayed Parent Liability pursuant to Section 2.4(g), are obtained or made, and, if and when any other legal impediments to the Transfer of any Delayed Parent Asset or the assumption of any Delayed Parent Liability have been removed, the Transfer of the applicable Delayed Parent Asset or the assumption of the applicable Delayed Parent Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement as promptly as reasonably practicable for no further consideration and without set-off.

(j) *Costs for Delayed Parent Assets and Delayed Parent Liabilities.* Any member of the SpinCo Group retaining a Delayed Parent Asset or Delayed Parent Liability due to the deferral of the Transfer of such Delayed Parent Asset or the deferral of the assumption of such Delayed Parent Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money with respect to such Delayed Parent Asset or Delayed Parent Liability, in each case unless the necessary funds are advanced (or otherwise made available) by Parent or the member of the Parent Group entitled to the Delayed Parent Asset or Delayed Parent Liability, other than reasonable out-of-pocket expenses, attorneys’ fees and recording or similar fees, all of which shall be promptly reimbursed by Parent or the member of the Parent Group entitled to such Delayed Parent Asset or Delayed Parent Liability.

## 2.5 Novation of Liabilities.

### (a) *Novation of SpinCo Liabilities.*

(i) Each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval or amendment required to novate or assign all SpinCo Liabilities (including all SpinCo Debt) and obtain in writing the unconditional release of each member of the Parent Group that is a party to any such arrangements (including the release, as of the Effective Time, by Sublandlord (as defined in the Sublease) of Parent from obligations under the Sublease as of and after the consummation of the Distribution), so that, in any such case, the members of the SpinCo Group shall be solely responsible for such SpinCo Liabilities; provided, however, that (without limiting the rights of Badger or the obligations of Parent under the Merger Agreement) none of Parent, SpinCo nor any member of their respective Groups shall be obligated (and, without the prior written consent of Badger, no member of the Parent Group shall) pay or commit to pay such Person whose Approval or Notification is required any cash or other consideration, make any commitment or incur any Liability to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the Parent Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an “Unreleased SpinCo Liability”), SpinCo shall, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the Parent Group, as the case may be, pay, perform and discharge fully all the obligations or other Liabilities of such member of the Parent Group that constitute Unreleased SpinCo Liabilities from and after the Effective Time and SpinCo shall cause the applicable member of its Group to pay or reimburse the member of the Parent Group that is subject to such Unreleased SpinCo Liability for all amounts paid or incurred by it in connection with the retention of such Unreleased SpinCo Liability. If and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased SpinCo Liabilities shall otherwise become assignable or able to be novated, Parent shall promptly assign, or cause to be assigned, and SpinCo or the applicable SpinCo Group member shall assume, such Unreleased SpinCo Liabilities without exchange of further consideration.

(b) *Novation of Parent Liabilities.*

(i) Each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval or amendment required to novate or assign all Parent Liabilities and obtain in writing the unconditional release of each member of the SpinCo Group that is a party to any such arrangements, so that, in any such case, the members of the Parent Group shall be solely responsible for such Parent Liabilities; provided, however, that none of Badger, Parent, SpinCo nor any member of their respective Groups shall be obligated (and, without the prior written consent of Badger, no member of the Parent Group shall) pay or commit to pay such Person whose Approval or Notification is required any cash or other consideration, make any commitment or incur any Liability to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

-27-

---

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the SpinCo Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an “Unreleased Parent Liability”), Parent shall, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the SpinCo Group, as the case may be, pay, perform and discharge fully all the obligations or other Liabilities of such member of the SpinCo Group that constitute Unreleased Parent Liabilities from and after the Effective Time and Parent shall cause the applicable member of its Group to pay or reimburse the member of the SpinCo Group that is subject to such Unreleased Parent Liability for all amounts paid or incurred by it in connection with the retention of such Unreleased Parent Liability. If and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased Parent Liabilities shall otherwise become assignable or able to be novated, SpinCo shall promptly assign, or cause to be assigned, and Parent or the applicable Parent Group member shall assume, such Unreleased Parent Liabilities without exchange of further consideration.

**2.6 Release of Guarantees; Dismissal from Litigation.** In furtherance of, and not in limitation of, the obligations set forth in Section 2.5:

(a) At or prior to the Effective Time or as soon as reasonably practicable thereafter, each of Parent and SpinCo shall, with the reasonable cooperation of such other Party and the applicable member(s) of such other Party’s Group, use its commercially reasonable efforts to (i) have any member(s) of the Parent Group removed as guarantor of or obligor for any SpinCo Liability (including any SpinCo Debt) to the extent that they relate to SpinCo Liabilities, including the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any such SpinCo Liability; and (ii) have any member(s) of the SpinCo Group removed as guarantor of or obligor for any Parent Liability to the extent that they relate to Parent Liabilities, including the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any such Parent Liability.

(b) To the extent required to obtain a release from a guarantee of:

(i) any member of the Parent Group, SpinCo shall execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement reasonably acceptable to SpinCo, which agreement shall include the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any SpinCo Liability, except to the extent that such existing guarantee contains representations,

covenants or other terms or provisions either (A) with which SpinCo would be reasonably unable to comply or (B) which SpinCo would not reasonably be able to avoid breaching; and

-28-

---

(ii) any member of the SpinCo Group, Parent or a member of the Parent Group designated by Badger and reasonably acceptable to SpinCo shall execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement reasonably acceptable to Parent, which agreement shall include the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any Parent Liability, except to the extent that such existing guarantee contains representations, covenants or other terms or provisions either (A) with which Parent would be reasonably unable to comply or (B) which Parent would not reasonably be able to avoid breaching.

(c) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required removal or release as set forth in clauses (a) and (b) of this Section 2.6, (A) the Party or the relevant member of its Group that has assumed or should have assumed the Liability with respect to such guarantee shall indemnify, defend and hold harmless the guarantor or obligor against or from any Liability relating thereto in accordance with the provisions of Article IV and shall, as agent or subcontractor for such guarantor or obligor, pay, perform and discharge fully all the obligations or other Liabilities of such guarantor or obligor thereunder; and (B) each of Parent and SpinCo, on behalf of itself and the other members of their respective Group, agree not to renew or extend the term of, increase any obligations under, or transfer to, a Third Party any loan, guarantee, lease, contract or other obligation for which the other Party or a member of its Group is or may be liable unless all obligations of such other Party and the members of such other Party's Group with respect thereto are thereupon terminated by documentation reasonably satisfactory in form and substance to such other Party.

(d) Without limiting the Parties' rights and obligations pursuant to Article IV:

(i) if Parent or any member of the Parent Group is a named defendant in a Third-Party Claim that does not arise out of any SpinCo Liabilities but to which SpinCo or a member of the SpinCo Group is a named defendant, to the extent requested by SpinCo, Parent shall reasonably cooperate, or cause the applicable member of the Parent Group to reasonably cooperate, with SpinCo to obtain the dismissal of SpinCo or any applicable members of the SpinCo Group as defendants to such Third-Party Claim; and

(ii) if SpinCo or any member of the SpinCo Group is a named defendant in a Third-Party Claim that does not arise out of any Parent Liabilities but to which Parent or a member of the Parent Group is a named defendant, to the extent requested by Parent, SpinCo shall reasonably cooperate, or cause the applicable member of the SpinCo Group to reasonably cooperate, with Parent to obtain the dismissal of Parent or any applicable members of the Parent Group as defendants to such Third-Party Claim.

(e) Notwithstanding the foregoing, no Party or member of its Group shall be required to take any action pursuant to Section 2.6(d) that would reasonably be expected to be detrimental in any material respect to such Party or Group member's litigation strategy or defense of the applicable Third-Party Claim or any related Third-Party Claim.

-29-

---

## 2.7 Termination of Agreements.

(a) Except as set forth in Section 2.7(b), in furtherance of the releases and other provisions of Section 4.1, SpinCo and each other member of the SpinCo Group, on the one hand, and Parent and each other member of the Parent Group, on the other hand, hereby terminate any and all agreements, arrangements, commitments or understandings, whether or not in writing, between or among SpinCo and/or any other member of the SpinCo Group, on the one hand, and Parent and/or any other member of the Parent Group, on the other hand, effective as of the Effective Time, including any agreements, arrangements, commitments or understandings listed or described on Schedule 2.7(b)(i), without any further Liability to either Party or the members of its Group. No such terminated



agreement, arrangement, commitment or understanding (including any provision thereof which purports to survive termination) shall be of any further force or effect after the Effective Time. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.7(a) shall not apply to any of the following agreements, arrangements, commitments or understandings (or to any of the provisions thereof): (i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement to be entered into by any of the Parties or any of the members of their respective Groups or to be continued from and after the Effective Time); (ii) any agreements, arrangements, commitments or understandings listed or described on Schedule 2.7(b)(ii); (iii) any agreements, arrangements, commitments or understandings to which any Third Party is a party thereto; (iv) any intercompany accounts payable or accounts receivable accrued as of the Effective Time that are reflected in the books and records of the Parties or otherwise documented in writing in accordance with past practices, which shall be settled in the manner contemplated by Section 2.7(c); (v) any agreements, arrangements, commitments or understandings to which any non-wholly owned Subsidiary of Parent or SpinCo, as the case may be, is a party; and (vi) any Shared Contracts.

(c) The Parties shall settle or extinguish immediately prior to the Effective Time all intercompany accounts receivable and accounts payable, in each case, that arise prior to the Effective Time and that do not arise out of the agreements, arrangements, commitments or understandings set forth in Section 2.7(a) or Section 2.7(b), between any member of the Parent Group, on the one hand, and any member of the SpinCo Group, on the other hand, in each case without any further Liability to either Party or the members of its Group. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

-30-

---

## 2.8 Treatment of Shared Contracts.

(a) Subject to applicable Law and without limiting the generality of the obligations set forth in Section 2.1, unless the Parties and Badger otherwise agree or the benefits of any contract, agreement, arrangement, commitment or understanding described in this Section 2.8 are expressly conveyed to the applicable Party pursuant to this Agreement or an Ancillary Agreement, with respect to any SpinCo Contract, which is assigned to SpinCo or any other member of the SpinCo Group pursuant to Section 2.2(a) but is not exclusively related to the SpinCo Business (any such Contract, a “Shared Contract”), the Parties shall, and shall cause each of the members of their respective Groups to, use commercially reasonable efforts (including using commercially reasonable efforts to (i) obtain any required Approvals or Notifications or (ii) facilitate a member of the Parent Group entering into a new Contract with the counterparty to such Shared Contract on the best terms reasonably available) to cause (A) the relevant member of the Parent Group to receive the rights and benefits previously provided to the Parent Business pursuant to such Shared Contract and (B) the relevant member of the Parent Group to bear the burden of the corresponding Liabilities under such Shared Contract. Following the Effective Time, SpinCo or another member of the SpinCo Group shall, upon reasonable written request from Parent, take such reasonable and permissible actions to cause a member of the Parent Group (at Parent’s sole cost and expense) to receive and exercise all rights under such Shared Contract to the extent such rights arise under the portion of the Shared Contract relating to the Parent Business, and Parent or another member of the Parent Group shall take such reasonable and permissible actions to bear the burden of the corresponding Liabilities to the extent such Liabilities arise under the portion of the Shared Contract relating to the Parent Business, and, as applicable, SpinCo or another member of the SpinCo Group shall promptly pay to Parent when received all monies received by the SpinCo Group under such portion of a Shared Contract. Notwithstanding the foregoing, no member of the SpinCo Group shall be required by this Section 2.8 to maintain in effect any Shared Contract, and no member of the Parent Group shall have any approval or other rights with respect to any amendment, termination or other modification of any Shared Contract.

(b) Each of Parent and SpinCo shall, and shall cause the members of its respective Group to, (i) treat for all Tax purposes the portion of each Shared Contract inuring to its respective businesses as an Asset owned by, and/or a Liability of, as applicable, such Party, or the members of its Group, as applicable, not later than the Effective Time, and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by applicable Law).

(c) Nothing in this Section 2.8 shall require any member of any Group to make any payment, incur any obligation or grant any concession for the benefit of any member of any other Group in order to effect any transaction contemplated by this Section 2.8, except to the extent advanced, assumed or agreed in advance in writing to be reimbursed or indemnified by any member of the other Group.

2.9 Bank Accounts; Wrong Pockets.

(a) Each Party agrees to take, or cause the members of its Group to take, at or prior to the Effective Time, all actions necessary to amend all Contracts governing each bank and brokerage account owned by SpinCo or any other member of the SpinCo Group (collectively, the “SpinCo Accounts”) and all Contracts governing each bank or brokerage account owned by Parent or any other member of the Parent Group (collectively, the “Parent Accounts”) so that each such SpinCo Account and Parent Account, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter “Linked”) to any Parent Account or SpinCo Account, respectively, is de-Linked from such Parent Account or SpinCo Account, respectively.

-31-

---

(b) It is intended that, following consummation of the actions contemplated by Section 2.9(a), there will be in place a cash management process pursuant to which the SpinCo Accounts will be managed and funds collected from the SpinCo Business will be transferred into one or more accounts maintained by SpinCo or a member of the SpinCo Group.

(c) It is intended that, following consummation of the actions contemplated by Section 2.9(a), there will continue to be in place a cash management process pursuant to which the Parent Accounts will be managed and funds from the Parent Business collected will be transferred into one or more accounts maintained by Parent or a member of the Parent Group.

(d) Subject to Section 2.12, with respect to any outstanding checks issued or payments initiated by Parent, SpinCo, or any of the members of their respective Groups prior to the Effective Time, such outstanding checks and payments shall be honored following the Effective Time by the Person or Group owning the account on which the check is drawn or from which the payment was initiated, respectively.

(e) As between Parent and SpinCo (and the members of their respective Groups), all monies, checks and other payments and reimbursements received after the Effective Time by either Party (or a member of its Group) that are (or represent the proceeds of, including accounts receivable of), in whole or in part, an Asset or Liability of the other Party (or a member of its Group), shall be held by such first Party in trust for the use and benefit of the other Party (or the applicable member of its Group) and, promptly following receipt by such first Party of any such money, check or other payment or reimbursement, such first Party shall pay over, or shall cause the applicable member of its Group to pay over to the other Party (or such member of its Group) the amount of such money, check or other payment or reimbursement without right of set-off.

2.10 Ancillary Agreements. Effective at or prior to the Effective Time, each of Parent and SpinCo will, or will cause the applicable members of their Groups to, execute and deliver all Ancillary Agreements to which it is or is contemplated to be a party.

-32-

---

2.11 Disclaimer of Representations and Warranties. EACH OF PARENT (ON BEHALF OF ITSELF AND EACH MEMBER OF THE PARENT GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE SPINCO GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT, NO PARTY TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE ASSETS, BUSINESSES OR LIABILITIES TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, AS TO ANY CONSENTS OR APPROVALS REQUIRED IN CONNECTION HERewith OR THEREWITH, AS TO THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING ANY ASSETS OF SUCH PARTY, OR AS TO THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY CLAIM OR OTHER ASSET, INCLUDING ANY ACCOUNTS RECEIVABLE, OF ANY PARTY, OR AS TO THE LEGAL SUFFICIENCY OF ANY ASSIGNMENT, DOCUMENT OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. EXCEPT AS MAY EXPRESSLY BE

SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT, ALL SUCH ASSETS ARE BEING TRANSFERRED ON AN “AS IS,” “WHERE IS” BASIS (AND, IN THE CASE OF ANY REAL PROPERTY, BY MEANS OF A QUITCLAIM OR SIMILAR FORM OF DEED OR CONVEYANCE) AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE WILL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD AND MARKETABLE TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST, AND (II) ANY NECESSARY APPROVALS OR NOTIFICATIONS ARE NOT OBTAINED OR MADE OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH. NO PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY IN THE EVENT THAT ANY INFORMATION EXCHANGED OR PROVIDED PURSUANT TO THIS AGREEMENT WHICH IS AN ESTIMATE OR FORECAST, OR WHICH IS BASED ON AN ESTIMATE OR FORECAST, IS FOUND TO BE INACCURATE.

## 2.12 SpinCo Cash Amount.

(a) At least five (5) Business Days prior to the Effective Time, SpinCo shall deliver to Badger a statement in writing (the “Cash Statement”) setting forth in reasonable detail SpinCo’s good faith estimate of the SpinCo Cash Amount as of the Business Day immediately preceding such date of delivery (the “Estimated SpinCo Cash Amount”) and the computation thereof, together with reasonable supporting documentation. During the period after the delivery of the Cash Statement and prior to the Effective Time, Badger shall have an opportunity to review the Cash Statement and SpinCo shall cooperate with Badger in good faith to mutually agree upon the Estimated SpinCo Cash Amount in the event Badger in good faith disputes the calculation thereof or any item included in such calculation; provided, however, that if SpinCo and Badger are not able to reach mutual agreement prior to the Effective Time, the Estimated SpinCo Cash Amount, as modified to include any changes agreed to by SpinCo and Badger, shall be the Estimated SpinCo Cash Amount for purposes of Section 2.12(b). SpinCo shall keep Badger apprised of changes to the Estimated SpinCo Cash Amount as a result of the occurrence of events between the date of computation of the Estimated SpinCo Cash Amount and the Effective Time.

(b) Immediately prior to the Effective Time, Parent shall contribute to SpinCo, or a member of the SpinCo Group shall retain, an amount of cash equal to the Estimated SpinCo Cash Amount determined pursuant to Section 2.12(a), as such amount is further adjusted to take into account the occurrence of events between the date of computation of the Estimated SpinCo Cash Amount and the Effective Time, in a manner consistent with the calculation of the Estimated SpinCo Cash Amount. Notwithstanding that Parent is obligated to make the Employment Payments, it is acknowledged and understood that the funds to be used to make the Employment Payments shall, as of the Closing (as defined in the Merger Agreement), be held by a member of the SpinCo Group, and as such, at the Closing, such member of the SpinCo Group shall cause the Employment Payments to be made on behalf of Parent.

-33-

---

(c) Notwithstanding the foregoing, to the extent that the Estimated SpinCo Cash Amount determined pursuant to Section 2.12(a), as such amount is further adjusted to take into account the occurrence of events between the date of computation of the Estimated SpinCo Cash Amount and the Effective Time, in a manner consistent with the calculation of the Estimated SpinCo Cash Amount, is a negative number, then immediately prior to the Effective Time, SpinCo shall distribute to Parent an amount of cash equal to the absolute value of the Estimated SpinCo Cash Amount, as adjusted.

## ARTICLE III THE DISTRIBUTION

### 3.1 Sole and Absolute Discretion; Cooperation.

(a) Without limiting Badger’s rights and Parent’s obligations under the Merger Agreement and the other provisions of this Agreement, Parent shall, in its sole and absolute discretion, determine the terms of the Distribution, including the form, structure and terms of any transaction(s) or offering(s) to effect the Distribution and the timing and conditions to the consummation of the Distribution. In addition, without limiting Badger’s rights and Parent’s obligations under the Merger Agreement and the other provisions of this Agreement, Parent may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution, including by accelerating or delaying the timing of the consummation of all or part of the Distribution. Nothing shall in any way limit Parent’s right to terminate this Agreement or the Distribution as set forth in, and subject to, Article IX or alter the consequences of any such termination from those specified in Article IX.

(b) SpinCo shall cooperate with Parent to accomplish the Distribution and shall, at Parent's direction, promptly take any and all actions necessary or desirable to effect the Distribution, including in respect of the registration under the Exchange Act of the SpinCo Common Shares on the SpinCo Registration Statement. Parent shall select any investment bank or manager in connection with the Distribution, as well as any financial printer, solicitation or exchange agent and financial, legal, accounting and other advisors for Parent. SpinCo and Parent, as the case may be, will provide to the Agent any information required in order to complete the Distribution.

3.2 Actions Prior to the Distribution. Prior to the Effective Time and subject to the terms and conditions set forth herein, the Parties shall take, or cause to be taken, the following actions in connection with the Distribution:

(a) *Notice to NYSE American.* Parent shall, to the extent possible, use reasonable best efforts to give the NYSE American not less than ten (10) days' advance notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

(b) *SpinCo Articles of Incorporation and SpinCo Bylaws.* On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that, as of the Effective Time, the SpinCo Articles of Incorporation and the SpinCo Bylaws shall become the articles of incorporation and bylaws, respectively, of SpinCo.

-34-

---

(c) *SpinCo Directors and Officers.* On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that as of the Effective Time: (i) the directors and executive officers of SpinCo shall be those set forth in the Information Statement, unless otherwise agreed by the Parties; (ii) each individual referred to in the foregoing clause (i) shall have resigned from his or her position, if any, effective as of the effective time of the Merger, as a member of the Parent Board or as an executive officer of Parent; and (iii) SpinCo shall have such other officers as SpinCo shall appoint.

(d) *NYSE American Listing.* SpinCo shall prepare and file, and shall use its reasonable best efforts to have approved, an application for the listing of the SpinCo Common Shares to be distributed in the Distribution on the NYSE American, subject to official notice of distribution.

(e) *Securities Law Matters.* Without limiting Badger's rights and Parent's obligations under the Merger Agreement, SpinCo shall file any amendments or supplements to the SpinCo Registration Statement as may be necessary or advisable in order to cause the SpinCo Registration Statement to become and remain effective as required by the SEC or federal, state or other applicable securities Laws. Without limiting Badger's rights and Parent's obligations under the Merger Agreement, Parent and SpinCo shall cooperate in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or advisable in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. Parent and SpinCo will prepare, and SpinCo will, to the extent required under applicable Law, file with the SEC, any such documentation and any requisite no-action letters or waivers which Parent determines are necessary or desirable to effectuate the Distribution, and Parent and SpinCo shall each use its reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable. Parent and SpinCo shall take all such actions as may be necessary or appropriate under the securities or blue sky Laws of the United States (and any comparable Laws under any foreign jurisdiction) in connection with the Distribution.

(f) *Availability of Information Statement.* Parent shall, as soon as is reasonably practicable after the SpinCo Registration Statement is declared effective under the Exchange Act and the Parent Board has approved the Distribution, cause the Information Statement to be made available to the Record Holders.

(g) *The Distribution Agent.* Parent shall enter into a distribution agent agreement with the Agent or otherwise provide instructions to the Agent regarding the Distribution.

3.3 Conditions to the Distribution.

(a) The consummation of the Distribution will be subject to the satisfaction, or waiver by Parent in its sole and absolute discretion, of the following conditions (provided that any waiver of clause (i), clause (iii), clause (iv) or clause (v) will require the prior written consent of Badger, which shall not be unreasonably withheld, conditioned or delayed):

(i) The SEC shall have declared effective the SpinCo Registration Statement; no order suspending the effectiveness of the SpinCo Registration Statement shall be in effect; and no proceedings for such purpose shall have been instituted or threatened by the SEC.

-35-

---

(ii) The Information Statement shall have been made available to the Record Holders.

(iii) SpinCo shall have received a written opinion of Vinson & Elkins L.L.P., Tax counsel to SpinCo, on which SpinCo and Parent (and Parent's successors) shall be entitled to rely, dated as of the Distribution Date, in form and substance substantially set forth on Exhibit D, which opinion concludes (subject to customary assumptions, qualifications and representations, including the representations made by SpinCo in the tax representation letter), that commencing with its short taxable year ending December 31, 2022, SpinCo will be organized and operated in conformity with the requirements for qualification and taxation as a REIT under the U.S. federal income tax laws and its intended and actual method of operation will enable SpinCo to qualify for taxation as a REIT under the U.S. federal income tax laws for its taxable year ending December 31, 2022 and thereafter.

(iv) One or more nationally recognized valuation or accounting firms or investment banks reasonably acceptable to Parent and Badger, shall have delivered one or more opinions in customary form to the Parent Board confirming the solvency of SpinCo after consummation of the Distribution, and such opinion(s) shall be acceptable to Parent in form and substance in Parent's sole discretion and such opinion(s) shall not have been withdrawn or rescinded.

(v) The Separation shall have been consummated in accordance with the Separation Step Plan in all material respects.

(vi) The actions or filings necessary or appropriate under applicable U.S. federal, U.S. state or other securities Laws or blue sky Laws and the rules and regulations thereunder to effect the Separation and the Distribution shall have been taken or made, and, where applicable, have become effective or been accepted by the applicable Governmental Authority.

(vii) Each of the Ancillary Agreements shall have been duly executed and delivered by the applicable parties thereto.

(viii) No order, injunction or decree issued by any Governmental Authority of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Separation, the Distribution or any of the transactions related thereto shall be in effect.

-36-

---

(ix) All necessary permits and authorizations under the Securities Act of 1933, as amended, and the Exchange Act relating to the issuance and trading of the SpinCo Common Shares shall have been obtained and remain in effect and the SpinCo Common Shares to be distributed to the Parent shareholders in the Distribution shall have been accepted for listing on the NYSE American, subject to official notice of distribution.

(x) No other events or developments shall exist or shall have occurred that, in the judgment of the Parent Board, in its sole and absolute discretion, makes it inadvisable to effect the Separation, the Distribution or the transactions contemplated by this Agreement or any Ancillary Agreement (except that the prior written consent of Badger shall be required for Parent to rely on the condition described in this clause (x) as a basis for not completing the Distribution).

(b) The foregoing conditions are for the sole benefit of Parent and shall not give rise to or create any duty on the part of Parent or the Parent Board to waive or not waive any such condition or in any way limit Parent's right to terminate this

Agreement as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX, without limiting the rights of Badger or the obligations of Parent hereunder or under the Merger Agreement. Any determination made by the Parent Board prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in Section 3.3(a) shall be conclusive and binding on the Parties (subject, in the case of a waiver, to the first sentence of Section 3.3(a)). If Parent waives any material condition, it shall promptly issue a press release disclosing such fact and file a Current Report on Form 8-K with the SEC describing such waiver.

### 3.4 The Distribution.

(a) Subject to Section 3.3, at or prior to the Effective Time, SpinCo will deliver to the Agent, for the benefit of the Record Holders, book-entry transfer authorizations for such number of the outstanding SpinCo Shares as is necessary to effect the Distribution, and shall cause the transfer agent for the Parent Shares to instruct the Agent to distribute at the Effective Time the appropriate number of SpinCo Shares to each such holder or designated transferee or transferees of such holder by way of direct registration in book-entry form. SpinCo will not issue paper stock certificates in respect of the SpinCo Shares. The Distribution shall be effective at the Effective Time.

(b) Subject to Sections 3.3 and 3.4(c), each Record Holder will be entitled to receive in the Distribution a number of whole SpinCo Common Shares equal to the number of Parent Common Shares held by such Record Holder on the Record Date multiplied by the Distribution Ratio, rounded down to the nearest whole number. Each Record Holder will be entitled to receive in the Distribution a number of whole SpinCo Class C Common Shares equal to the number of Parent Class C Common Shares held by such Record Holder on the Record Date multiplied by the Distribution Ratio, rounded down to the nearest whole number. Notwithstanding anything to the contrary in this Agreement, SpinCo Common Shares that are distributed in the Distribution in respect of a Parent Restricted Stock Award (all such SpinCo Common Shares taken together, the "Restricted SpinCo Common Shares") shall be subject to the same vesting conditions as the underlying Parent Restricted Stock Award and shall vest immediately following the Effective Time (as defined in the Merger Agreement).

-37-

---

(c) No fractional shares will be distributed or credited to book-entry accounts in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled shall not entitle such Record Holder to vote or to any other rights as a shareholder of SpinCo. In lieu of any such fractional SpinCo Common Shares, each Record Holder who, but for the provisions of this Section 3.4(c), would be entitled to receive a fractional share interest of a SpinCo Common Share pursuant to the Distribution, shall be paid cash, without any interest thereon, as hereinafter provided. As soon as practicable after the Effective Time, SpinCo shall direct the Agent to determine the number of whole and fractional SpinCo Common Shares allocable to each Record Holder, to aggregate all such fractional shares into whole shares, and to sell the whole shares obtained thereby in the open market at the then prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests of SpinCo Common Shares (with the Agent, in its sole and absolute discretion, determining when, how and through which broker-dealer and at what price to make such sales), and to cause to be distributed to each such Record Holder, in lieu of any fractional share, such Record Holder's or owner's ratable share of the total proceeds of such sale, after deducting any Taxes required to be withheld and applicable Transfer Taxes, and after deducting the costs and expenses of such sale and distribution, including brokers fees and commissions. No member of the Parent Group shall bear the cost of any Taxes, costs or expenses of such sale and distribution in respect of any fractional shares. None of Parent or SpinCo or their respective Groups, or the Agent, will be required to guarantee any minimum sale price for the fractional SpinCo Common Shares sold in accordance with this Section 3.4(c). Neither Parent, SpinCo nor any member of their respective Groups will be required to pay any interest on the proceeds from the sale of fractional shares. Neither the Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of Parent or SpinCo. Solely for purposes of computing fractional share interests pursuant to this Section 3.4(c) and Section 3.4(d), the beneficial owner of Parent Shares held of record in the name of a nominee in any nominee account as of immediately prior to the Effective Time shall be treated as the Record Holder with respect to such shares.

(d) Any SpinCo Shares or cash in lieu of fractional shares with respect to SpinCo Common Shares that remain unclaimed by any Record Holder one hundred eighty (180) days after the Distribution Date shall be delivered to SpinCo, and SpinCo or its transfer agent on its behalf shall hold such SpinCo Shares and cash for the account of such Record Holder, and the Parties agree that all obligations to provide such SpinCo Shares and cash, if any, in lieu of fractional share interests shall be obligations of SpinCo, subject in each case to applicable escheat or other abandoned property Laws, and none of Parent, Badger or any member of the Parent Group shall have any Liability with respect thereto.

(e) Until the SpinCo Shares are duly transferred in accordance with this [Section 3.4](#) and applicable Law, from and after the Effective Time, SpinCo will regard the Persons entitled to receive such SpinCo Shares as record holders of SpinCo Shares in accordance with the terms of the Distribution without requiring any action on the part of such Persons. SpinCo agrees that, subject to any transfers of such shares, from and after the Effective Time (i) each such holder will be entitled to receive all dividends, if any, payable on, and exercise voting rights and all other rights and privileges with respect to, the SpinCo Shares then held by such holder, and (ii) each such holder will be entitled, without any action on the part of such holder, to receive evidence of ownership of the SpinCo Shares then held by such holder.

-38-

---

#### ARTICLE IV MUTUAL RELEASES; INDEMNIFICATION

##### 4.1 Release of Pre-Distribution Claims.

(a) *SpinCo Release of Parent.* Except as provided in [Section 4.1\(c\)](#), effective as of the Effective Time, SpinCo does hereby, for itself and each other member of the SpinCo Group, and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents, other Representatives or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) Parent and the members of the Parent Group, and their respective successors and assigns and (ii) all Persons who at any time prior to the Effective Time have been Affiliates, shareholders, directors, officers, agents, other Representatives or employees of any member of the Parent Group or any of their Affiliates other than any member of the SpinCo Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns (the Persons set forth in clauses (i) and (ii), the “[Parent Non-Recourse Parties](#)”) and all Badger Non-Recourse Parties, in each case from: (A) all SpinCo Liabilities, (B) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (C) all other Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to the SpinCo Business, the SpinCo Assets, the SpinCo Liabilities or any member of the Parent Group’s direct or indirect beneficial ownership of the equity interests of any member of the SpinCo Group or any member of the Parent Group’s management, oversight, supervision or operation of the SpinCo Business.

(b) *Parent Release of SpinCo.* Except as provided in [Section 4.1\(c\)](#), effective as of the Effective Time, Parent does hereby, for itself and each other member of the Parent Group, and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents, other Representatives or employees of any member of the Parent Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) SpinCo and the members of the SpinCo Group and their respective successors and assigns, and (ii) all Persons who at any time prior to the Effective Time have been Affiliates, shareholders, directors, officers, agents, other Representatives or employees of any member of the SpinCo Group or any of their Affiliates other than any member of the Parent Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns (the Persons set forth in clauses (i) and (ii), the “[SpinCo Non-Recourse Parties](#)”), in each case from: (A) all Parent Liabilities, (B) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (C) all other Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to the Parent Business, the Parent Assets or the Parent Liabilities or any member of the Parent Group’s direct or indirect beneficial ownership of the equity interests of any member of the SpinCo Group.

-39-

---

(c) *Obligations Not Affected.* Nothing contained in [Section 4.1\(a\)](#) or [4.1\(b\)](#) shall impair any right of any Person to enforce this Agreement, the Merger Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in [Section 2.7\(b\)](#) or the applicable Schedules thereto as not to terminate as of the Effective Time, in each case in accordance with its terms. Nothing contained in [Section 4.1\(a\)](#) or [4.1\(b\)](#) shall release any Person from:

- (i) any Liability provided in or resulting from any agreement among any members of the Parent Group or any members of the SpinCo Group that is specified in [Section 2.7\(b\)](#) or the applicable Schedules thereto as not to terminate as of the Effective Time, or any other Liability specified in [Section 2.7\(b\)](#) as not to terminate as of the Effective Time;
- (ii) any Liability, contingent or otherwise, assumed, transferred, assigned or allocated to the Group of which such Person is a member in accordance with, or any other Liability of any member of any Group under, this Agreement, the Merger Agreement or any Ancillary Agreement;
- (iii) any Liability for the sale, lease, construction or receipt of goods, property or services purchased, obtained or used in the ordinary course of business by a member of one Group from a member of the other Group prior to the Effective Time;
- (iv) any Liability provided in or resulting from any other Contract or understanding that is entered into after the Effective Time between any Party (and/or a member of such Party's Group), on the one hand, and the other Party (and/or a member of such other Party's Group), on the other hand;
- (v) any Liability that SpinCo, the OP, Parent or New LLC may have with respect to indemnification or contribution or other obligation pursuant to this Agreement, the Merger Agreement, any Ancillary Agreement or otherwise for claims brought against such parties by Third Parties, which Liability shall be governed by the provisions of this [Article IV](#) and [Article V](#) and, if applicable, the appropriate provisions of the Merger Agreement or the Ancillary Agreements; or
- (vi) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this [Section 4.1](#).

In addition, nothing contained in [Section 4.1\(a\)](#) shall release any member of the Parent Group from honoring any of the obligations it has to indemnify any director, officer or employee of any member of the SpinCo Group who was a director, officer or employee of any member of the Parent Group at or prior to the Effective Time; it being understood that, if the underlying obligation giving rise to such Action is a SpinCo Liability, SpinCo shall indemnify Parent for such Liability (including Parent's costs to indemnify the director, officer or employee) in accordance with the provision set forth in this [Article IV](#).

-40-

---

(d) *No Claims.* SpinCo shall not make, and shall not permit any other member of the SpinCo Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against Parent or any other member of the Parent Group, or any other Person released pursuant to [Section 4.1\(a\)](#), with respect to any Liabilities released pursuant to [Section 4.1\(a\)](#). Parent shall not make, and shall not permit any other member of the Parent Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against SpinCo or any other member of the SpinCo Group, or any other Person released pursuant to [Section 4.1\(b\)](#), with respect to any Liabilities released pursuant to [Section 4.1\(b\)](#).

(e) *Execution of Further Releases.* At any time at or after the Effective Time, at the reasonable request of either Party, the other Party shall cause applicable members of its respective Group and, to the extent reasonably practicable, other Persons on whose behalf it released Liabilities pursuant to this [Section 4.1](#) to execute and deliver releases reflecting the provisions of this [Section 4.1](#).

4.2 **Indemnification by SpinCo.** Except as otherwise specifically set forth in this Agreement (including [Section 8.4](#)) or in any Ancillary Agreement, to the fullest extent permitted by Law, each of SpinCo and the OP shall, and SpinCo shall cause the other members of the SpinCo Group to, indemnify, defend and hold harmless Parent, each member of the Parent Group and each of their Affiliates (excluding, for the avoidance of doubt, any portfolio companies of Affiliates of Parent that are not Subsidiaries of, or providing services to, a member of the Parent Group) and their respective past, present and future directors, officers, employees and



agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of the foregoing (collectively, the “Parent Indemnitees”), from and against any and all Liabilities of the Parent Indemnitees relating to, directly or indirectly, any of the following items (without duplication):

- (a) any SpinCo Liability;
- (b) any failure of SpinCo, any other member of the SpinCo Group or any other Person to pay, perform or otherwise promptly discharge any SpinCo Liabilities in accordance with their terms, whether prior to, at or after the Effective Time;
- (c) any breach by SpinCo or any other member of the SpinCo Group of any of its representations, warranties, covenants or agreements set forth in this Agreement or any of the Ancillary Agreements;
- (d) except to the extent it relates to a Parent Liability, any guarantee, pledge, indemnification or contribution obligation, surety bond or other credit support arrangement, commitment or understanding for the benefit of any member of the SpinCo Group by any member of the Parent Group that survives following the Distribution;
- (e) any claims made by any Service Provider or Former Service Provider which are covered by the Service Provider Releases; and

-41-

---

(f) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in any Disclosure Document, other than the matters described in clause (e) of Section 4.3.

4.3 Indemnification by Parent. Except as otherwise specifically set forth in this Agreement (including Section 8.4) or in any Ancillary Agreement, to the fullest extent permitted by Law, each of Parent and New LLC shall, and Parent shall cause the other members of the Parent Group to, indemnify, defend and hold harmless SpinCo, each member of the SpinCo Group and each of their Affiliates and their respective past, present and future directors, officers, employees and agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of the foregoing (collectively, the “SpinCo Indemnitees”), from and against any and all Liabilities of the SpinCo Indemnitees relating to, directly or indirectly, any of the following items (without duplication):

- (a) any Parent Liability;
- (b) any failure of Parent, any other member of the Parent Group or any other Person to pay, perform or otherwise promptly discharge any Parent Liabilities in accordance with their terms, whether prior to, at or after the Effective Time;
- (c) any breach by Parent or any other member of the Parent Group of any of its representations, warranties, covenants or agreement set forth in this Agreement or any of the Ancillary Agreements;
- (d) except to the extent it relates to a SpinCo Liability, any guarantee, pledge, indemnification or contribution obligation, surety bond or other credit support arrangement, commitment or understanding for the benefit of any member of the Parent Group by any member of the SpinCo Group that survives following the Distribution; and
- (e) subject to Section 8.4, any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in any disclosure document filed by Parent that describes the Separation and the Distribution.

4.4 Indemnification Obligations Net of Insurance Proceeds and Third Party Proceeds.

(a) The Parties intend that any Liability subject to indemnification, contribution or reimbursement pursuant to this Article IV or Article V will be net of Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses or Taxes incurred in the collection thereof) from any Person (“Third Party Proceeds”) by or on behalf of the Indemnitee in respect of any indemnifiable Liability. Accordingly, the amount which SpinCo, the OP, Parent or New LLC (an “Indemnifying Party”) is required

to pay to any Person entitled to indemnification or contribution hereunder (an “Indemnitee”) will be reduced by any Insurance Proceeds or Third Party Proceeds actually recovered (in each case, net of any out-of-pocket costs or expenses or Taxes actually incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of the related Liability. If an Indemnitee receives a payment (an “Indemnity Payment”) required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds or any Third Party Proceeds in respect of such Liability, then within ten (10) calendar days of receipt of such Insurance Proceeds or Third Party Proceeds, the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or such Third Party Proceeds (in each case, net of any out-of-pocket costs or expenses or Taxes actually incurred in the collection thereof) had been received, realized or recovered before the Indemnity Payment was made.

-42-

---

(b) The Parties agree that an insurer that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of any provision contained in this Agreement or any Ancillary Agreement, have any subrogation rights with respect thereto, it being understood that no insurer or any other Third Party shall be entitled to a “windfall” (i.e., a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification and contribution provisions hereof. Each of SpinCo, the OP, Parent and New LLC shall, and shall cause the members of its Group (as applicable) to, use commercially reasonable efforts to collect or recover any Insurance Proceeds or Third Party Proceeds that may be collectible or recoverable respecting the Liabilities for which indemnification or contribution may be available under this Article IV; provided, that any such party’s inability to collect or recover Insurance Proceeds or Third Party Proceeds (despite having used commercially reasonable efforts) shall not limit the Indemnifying Party’s obligations hereunder. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification payment required under the terms of this Agreement, or otherwise satisfying any indemnification obligation, pending the outcome of any Action to collect or recover Insurance Proceeds or Third Party Proceeds, and without limiting its commercially reasonable efforts obligation pursuant to the foregoing sentence, if any, an Indemnitee need not attempt to collect any Insurance Proceeds or Third Party Proceeds prior to making a claim for indemnification or contribution or receiving any indemnification payment or contribution otherwise owed to it under this Agreement or any Ancillary Agreement.

(c) Any indemnification payment under this Article IV shall be adjusted in accordance with Section 6.03(b) of the Tax Matters Agreement, to the extent applicable.

#### 4.5 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims.* If, at or following the Effective Time, an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the Parent Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a “Third-Party Claim”) with respect to which an Indemnitee may seek indemnification hereunder or under any Ancillary Agreement, such Indemnitee shall give such Indemnifying Party written notice thereof as soon as practicable, but in any event within fourteen (14) days (or sooner if the nature of the Third-Party Claim so requires) after becoming aware of such Third-Party Claim. Any such notice shall describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Section 4.5(a) shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee’s failure to provide notice in accordance with this Section 4.5(a). Thereafter, the Indemnitee shall deliver to the Indemnifying Party, promptly (and in any event within ten (10) Business Days) after the Indemnitee’s receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim; provided, however, that the failure to forward such notices and documents shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee’s failure.

-43-

---

(b) *Control of Defense.* Subject to Section 4.5(e), an Indemnifying Party may elect to assume the defense of (and seek to settle or compromise), at its own expense and with its own counsel, any Third-Party Claim. Within thirty (30) days after the

receipt of a notice from an Indemnitee in accordance with [Section 4.5\(a\)](#) (or sooner, if the nature of the Third-Party Claim so requires), the Indemnifying Party shall provide written notice to the Indemnitee indicating whether the Indemnifying Party shall assume responsibility for defending the Third-Party Claim. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within thirty (30) days after receipt of the notice from an Indemnitee as provided in [Section 4.5\(a\)](#), then the Indemnitee that is the subject of such Third-Party Claim shall be entitled to continue to conduct and control the defense of such Third-Party Claim.

(c) *Allocation of Defense Costs.* If an Indemnifying Party has elected to assume the defense of a Third-Party Claim, then such Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense of such Third-Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within thirty (30) days after receipt of a notice from an Indemnitee as provided in [Section 4.5\(a\)](#), the Indemnitee conducts and controls the defense of such Third-Party Claim and the Indemnifying Party has an indemnification obligation with respect to such Third-Party Claim, then the Indemnifying Party shall be liable for all reasonable, documented fees and expenses incurred by the Indemnitee in connection with the defense of such Third-Party Claim.

(d) *Right to Monitor and Participate.* An Indemnitee that does not conduct and control the defense of any Third-Party Claim, or an Indemnifying Party that has failed to elect to defend any Third-Party Claim as contemplated hereby, nevertheless shall have the right to employ separate counsel (including local counsel as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee or Indemnifying Party, but the fees and expenses of such counsel shall be at the expense of such Indemnitee or Indemnifying Party, as the case may be, and the provisions of [Section 4.5\(c\)](#) shall not apply to such fees and expenses. Notwithstanding the foregoing, but subject to [Sections 6.7](#) and [6.8](#), such party shall cooperate with the party entitled to conduct and control the defense of such Third-Party Claim in such defense and make available to the controlling party, at the non-controlling party's expense, all witnesses, information and materials in such party's possession or under such party's control relating thereto as are reasonably required by the controlling party. In addition to the foregoing, if the Indemnifying Party has assumed the defense of a Third-Party Claim and any Indemnitee shall in good faith determine that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee shall have the right to employ one separate counsel (including local counsel as necessary) and to participate in (but not control) the defense, compromise, or settlement thereof, and in such case the Indemnifying Party shall bear the reasonable and documented fees and expenses of such counsel for all Indemnitees.

-44-

---

(e) *No Settlement.* Neither SpinCo, the OP, Parent or New LLC may settle or compromise any Third-Party Claim for which a Parent Indemnitee (in the case of SpinCo or the OP) or a SpinCo Indemnitee (in the case of Parent or New LLC) is seeking to be indemnified hereunder without the prior written consent (which consent may not be unreasonably withheld, conditioned or delayed) of SpinCo or the OP in the case of Parent or New LLC, or Parent or New LLC in the case of SpinCo or the OP, unless such settlement or compromise is solely for monetary damages that are fully payable by the settling or compromising party, does not involve any admission, finding or determination of wrongdoing or violation of Law by the non-settling or non-compromising party and provides for a full, unconditional and irrevocable release of the non-settling or non-compromising party from all Liability in connection with the Third-Party Claim.

(f) *Tax Matters Agreement Governs.* The above provisions of this [Section 4.5](#) and the provisions of [Section 4.6](#) do not apply to Taxes (it being understood and agreed that Taxes and Tax matters shall be governed by the Tax Matters Agreement). In the case of any conflict between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

#### 4.6 Additional Matters.

(a) *Timing of Payments.* Indemnification or contribution payments in respect of any Liabilities for which an Indemnitee is entitled to indemnification or contribution under this [Article IV](#) shall be paid reasonably promptly (but in any event within forty-five (45) days of the final determination of the amount for which the Indemnitee is entitled to indemnification or contribution under this [Article IV](#)) by the Indemnifying Party to the Indemnitee as such Liabilities are incurred upon demand by the Indemnitee, including reasonably satisfactory documentation setting forth the basis for the amount of such indemnification or contribution payment,

including documentation with respect to calculations made and consideration of any Insurance Proceeds and Third Party Proceeds that actually reduce the amount of such Liabilities. The indemnity and contribution provisions contained in this Article IV shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee, and (ii) the knowledge of any Indemnitee of Liabilities for which it might be entitled to indemnification hereunder.

-45-

---

(b) *Notice of Direct Claims.* An Indemnitee shall give the Indemnifying Party written notice of any matter that an Indemnitee has determined has given or could give rise to a right of indemnification or contribution under this Agreement or any Ancillary Agreement that does not result from a Third-Party Claim within thirty (30) days of such determination, which notice shall describe the claim in reasonable detail, state the amount of the indemnifiable Liability claimed, if known, and the method of computation thereof, and contain a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed by such Indemnitee or arises. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Section 4.5(b) shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 4.5(b). If such Indemnifying Party does not respond within thirty (30) days after the receipt of notice from the Indemnitee or rejects such claim in whole or in part, such Indemnitee shall, subject to the provisions of Article VII, be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the Ancillary Agreements, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

(c) *Pursuit of Claims Against Third Parties.* If (i) a party incurs any Liability arising out of this Agreement or any Ancillary Agreement; (ii) an adequate legal or equitable remedy is not available for any reason against the other party to satisfy the Liability incurred by the incurring party; and (iii) a legal or equitable remedy may be available to the other party against a Third Party for such Liability, then the other party shall use its commercially reasonable efforts to cooperate with the incurring party, at the incurring party's expense, to permit the incurring party to obtain the benefits of such legal or equitable remedy against the Third Party.

(d) *Subrogation.* In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party may elect to be subrogated to and stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. If the Indemnifying Party elects to be so subrogated, such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(e) *Substitution.* In the event of an Action for which the Indemnifying Party has assumed the defense pursuant to Section 4.5(b) but in which the Indemnifying Party is not a named defendant and an Indemnitee is a named defendant, if the Indemnifying Party shall so request, the parties shall endeavor to substitute the Indemnifying Party for the Indemnitee named as a defendant in the Action.

#### 4.7 Right of Contribution.

(a) *Contribution.* If any right of indemnification contained in Section 4.2 or Section 4.3 is held unenforceable or is unavailable for any reason, or is insufficient to hold harmless an Indemnitee in respect of any Liability for which such Indemnitee is entitled to indemnification hereunder, then the Indemnifying Party shall contribute to the amounts paid or payable by the Indemnitees as a result of such Liability (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the members of its Group, on the one hand, and the Indemnitees entitled to contribution, on the other hand, as well as any other relevant equitable considerations.

-46-

---

(b) *Allocation of Relative Fault.* Solely for purposes of determining relative fault pursuant to this Section 4.7:  
(i) any fault associated with the business conducted with the Delayed SpinCo Assets or Delayed SpinCo Liabilities (except for the gross negligence, bad faith or willful misconduct of a member of the Parent Group) or with the ownership, operation or activities of the

SpinCo Business prior to the Effective Time shall be deemed to be the fault of SpinCo and the other members of the SpinCo Group, and no such fault shall be deemed to be the fault of Parent or any other member of the Parent Group, and (ii) any fault associated with the business conducted with Delayed Parent Assets or Delayed Parent Liabilities (except for the gross negligence, bad faith or willful misconduct of a member of the SpinCo Group) or with the ownership, operation or activities of the Parent Business prior to the Effective Time shall be deemed to be the fault of Parent and the other members of the Parent Group, and no such fault shall be deemed to be the fault of SpinCo or any other member of the SpinCo Group.

4.8 Covenant Not to Sue. Each of SpinCo, the OP, Parent and New LLC hereby covenants and agrees that none of it, the members of such Party's Group (as applicable) or any Person claiming through it shall bring suit or otherwise assert any claim against any Indemnitee, or assert a defense against any claim asserted by any Indemnitee, before any court, arbitrator, mediator or administrative agency anywhere in the world, alleging that: (a) the assumption of any SpinCo Liabilities by SpinCo or a member of the SpinCo Group on the terms and conditions set forth in this Agreement or the Ancillary Agreements is void or unenforceable for any reason; (b) the retention of any Parent Liabilities by Parent or a member of the Parent Group on the terms and conditions set forth in this Agreement or the Ancillary Agreements is void or unenforceable for any reason; or (c) the provisions of this Article IV are void or unenforceable for any reason.

4.9 Remedies Cumulative. The remedies provided in this Article IV shall be cumulative and, subject to the provisions of Article VII, shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

4.10 Survival of Indemnities. The rights and obligations of each of Parent, New LLC, SpinCo and the OP and their respective Indemnitees under this Article IV shall survive (a) the sale or other transfer by either Party or any member of its Group of any assets or businesses or the assignment by it of any liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving either Party or any of the members of its Group; it being understood that in any such case, the applicable Party or Group member shall make proper provision so that the successor or acquiror, as applicable, expressly assumes the obligations of such Party or Group member set forth in this Article IV.

-47-

---

4.11 Certain Tax Procedures.

(a) *Indemnification Payments to SpinCo*.

(i) With respect to any period in which SpinCo has made or will make an election to be taxed as a REIT, notwithstanding any other provisions in this Agreement or any Ancillary Agreement, any indemnification payments to be made to any member of the SpinCo Group pursuant to Section 4.3 or Section 4.4 or otherwise pursuant to this Agreement or any indemnification payments to be made to any member of the SpinCo Group pursuant to any Ancillary Agreement (a "SpinCo Indemnity Payment") for any calendar year shall not exceed the sum of (1) the amount that is determined will not be gross income of SpinCo for purposes of the requirements of Sections 856(c)(2) and (3) of the Code (the "Specified REIT Requirements") for any period in which SpinCo has made any election to be taxed as a REIT, with such determination to be set forth in an opinion of outside tax counsel selected by SpinCo, which opinion shall be reasonably satisfactory to SpinCo, plus (2) such additional amount that is estimated can be paid to SpinCo in such taxable year without causing SpinCo to fail to meet the Specified REIT Requirements, determined (x) as if the payment of such amount did not constitute income described in Sections 856(c)(2)(A) through (I) and 856(c)(3)(A) through (I) of the Code ("Qualifying Income") and (y) by taking into account any other payments to SpinCo (and any other relevant member of the SpinCo Group) during such taxable year that do not constitute Qualifying Income, which determination shall be (A) made by independent tax accountants to SpinCo, and (B) submitted to and approved by SpinCo's outside tax counsel, and, (3) in the event that SpinCo receives a ruling from the IRS or an opinion of SpinCo's outside tax counsel to the effect that the receipt of the additional amount of SpinCo Indemnity Payments otherwise required to be paid in excess of the amounts paid under clause (1) and (2) above either would constitute Qualifying Income or would be excluded from gross income of SpinCo for purposes of the Specified REIT Requirements, the aggregate SpinCo Indemnity Payments otherwise required to be made (determined without regard to this Section 4.11(a)), less the amount otherwise previously paid under clauses (1) and (2) above.

(ii) To the extent that SpinCo Indemnity Payments owed in any calendar year exceed the amount that may be paid pursuant to Section 4.11(a)(i), Parent shall place (or cause to be placed) the full amount of any remaining SpinCo Indemnity Payments required to be made in a mutually agreed escrow account upon mutually acceptable terms, which shall provide that (1) the amounts in the escrow account shall be treated as the property of Parent or the applicable member of the Parent Group, until such amounts are released from such escrow account to any SpinCo Indemnitee, (2) all income earned upon the amounts in the escrow account shall be treated as the property of Parent or the applicable member of the Parent Group and reported, as and to the extent required by applicable Law, by the escrow agent to the IRS, or any other taxing authority, on IRS Form 1099 or 1042S (or other appropriate form) as income earned by Parent or the applicable member of the Parent Group whether or not said income has been distributed to Parent or a member of the Parent Group during such taxable year, (3) the amounts in the escrow account shall be invested only as determined by Parent in its sole discretion, and (4) any portion thereof shall not be released to any SpinCo Indemnitee unless and until Parent receives any of the following: (A) a letter from SpinCo's independent tax accountants indicating the amount that it is estimated can be paid at that time to the SpinCo Indemnitee without causing SpinCo to fail to meet the Specified REIT Requirements for the taxable year in which the payment would be made, which determination shall be (1) made by such independent tax accountants and (2) submitted to and approved by SpinCo's outside tax counsel, (B) an opinion of outside tax counsel selected by SpinCo, such opinion to be reasonably satisfactory to SpinCo, to the effect that, based upon a change in applicable Law after the date on which payment was first deferred hereunder or a ruling from the IRS, receipt of the additional amount of SpinCo Indemnity Payments otherwise required to be paid either would be excluded from gross income of SpinCo for purposes of the Specified REIT Requirements or would constitute Qualifying Income, in either of which events amounts shall be released from the escrow account to the applicable SpinCo Indemnitee in an amount equal to the lesser of the unpaid SpinCo Indemnity Payments due and owing (determined without regard to this Section 4.11(a)) or the maximum amount stated in the letter referred to in clause (3)(A) above or (C) a letter from SpinCo designating a Taxable REIT Subsidiary of SpinCo as the recipient of the SpinCo Indemnity Payment, in which case the escrow agent shall release the remainder of the SpinCo Indemnity Payment to SpinCo or its designee.

-48-

---

(iii) Any amount held in escrow pursuant to Section 4.11(a)(ii) for five (5) years after the date on which Parent's obligation to pay the SpinCo Indemnity Payment arose shall be released from such escrow to be used as determined by Parent in its sole and absolute discretion.

(iv) SpinCo shall bear all costs and expenses with respect to the escrow.

(v) Parent shall reasonably cooperate in good faith to amend this Section 4.11(a) at the reasonable request of SpinCo in order to (1) maximize the portion of the payments that may be made to the SpinCo Indemnitees hereunder without causing SpinCo to fail to meet the Specified REIT Requirements, (2) improve SpinCo's chances of securing a favorable ruling described in this Section 4.11(a), or (3) assist SpinCo in obtaining a favorable opinion from its outside tax counsel or determination from its tax accountants as described in this Section 4.11(a).

(b) *Indemnification Payments to Parent.*

(i) With respect to any period in which Parent has made or will make an election to be taxed as a REIT, notwithstanding any other provisions in this Agreement or any Ancillary Agreement, any indemnification payments to be made to any member of the Parent Group pursuant to Section 4.2 or Section 4.4 or otherwise pursuant to this Agreement or any indemnification payments to be made to any member of the Parent Group pursuant to any Ancillary Agreement (a "Parent Indemnity Payment") for any calendar year shall not exceed the sum of (1) the amount that is determined will not be gross income of Parent for purposes of the Specified REIT Requirements for any period in which Parent has made any election to be taxed as a REIT, with such determination to be set forth in an opinion of outside tax counsel selected by Parent, which opinion shall be reasonably satisfactory to Parent, plus (2) such additional amount that is estimated can be paid to Parent in such taxable year without causing Parent to fail to meet the Specified REIT Requirements, determined (x) as if the payment of such amount did not constitute Qualifying Income and (y) by taking into account any other payments to Parent (and any other relevant member of the Parent Group) during such taxable year that do not constitute Qualifying Income, which determination shall be (A) made by independent tax accountants to Parent, and (B) submitted to and approved by Parent's outside tax counsel, and, (3) in the event that Parent receives a ruling from the IRS or an opinion of Parent's outside tax counsel to the effect that the receipt of the additional amount of Parent Indemnity Payments otherwise required to be paid in excess of the amounts paid

under clause (1) and (2) above either would constitute Qualifying Income or would be excluded from gross income of Parent for purposes of the Specified REIT Requirements, the aggregate Parent Indemnity Payments otherwise required to be made (determined without regard to this [Section 4.11\(b\)](#)), less the amount otherwise previously paid under clauses (1) and (2) above.

-49-

---

(ii) To the extent that Parent Indemnity Payments owed in any calendar year exceed the amount that may be paid pursuant to [Section 4.11\(b\)\(i\)](#), SpinCo shall place (or cause to be placed) the full amount of any remaining Parent Indemnity Payments required to be made in a mutually agreed escrow account upon mutually acceptable terms, which shall provide that (1) the amounts in the escrow account shall be treated as the property of SpinCo or the applicable member of the SpinCo Group, until such amounts are released from such escrow account to any Parent Indemnitee, (2) all income earned upon the amounts in the escrow account shall be treated as the property of SpinCo or the applicable member of the SpinCo Group and reported, as and to the extent required by applicable Law, by the escrow agent to the IRS, or any other taxing authority, on IRS Form 1099 or 1042S (or other appropriate form) as income earned by SpinCo or the applicable member of the SpinCo Group whether or not said income has been distributed to SpinCo or a member of the SpinCo Group during such taxable year, (3) the amounts in the escrow account shall be invested only as determined by SpinCo in its sole discretion, and (4) any portion thereof shall not be released to any Parent Indemnitee unless and until SpinCo receives any of the following: (A) a letter from Parent's independent tax accountants indicating the amount that it is estimated can be paid at that time to the Parent Indemnitees without causing Parent to fail to meet the Specified REIT Requirements for the taxable year in which the payment would be made, which determination shall be (1) made by such independent tax accountants and (2) submitted to and approved by Parent's outside tax counsel, (B) an opinion of outside tax counsel selected by Parent, such opinion to be reasonably satisfactory to Parent, to the effect that, based upon a change in applicable Law after the date on which payment was first deferred hereunder or a ruling from the IRS, receipt of the additional amount of Parent Indemnity Payments otherwise required to be paid either would be excluded from gross income of Parent for purposes of the Specified REIT Requirements or would constitute Qualifying Income, in either of which events amounts shall be released from the escrow account to the applicable Parent Indemnitees in an amount equal to the lesser of the unpaid Parent Indemnity Payments due and owing (determined without regard to this [Section 4.11\(b\)](#)) or the maximum amount stated in the letter referred to in clause (3)(A) above or (C) a letter from Parent designating a Taxable REIT Subsidiary of Parent as the recipient of the Parent Indemnity Payment, in which case the escrow agent shall release the remainder of the Parent Indemnity Payment to Parent or its designee.

-50-

---

(iii) Any amount held in escrow pursuant to [Section 4.11\(b\)\(ii\)](#) for five (5) years after the date on which SpinCo's obligation to pay the Parent Indemnity Payment arose shall be released from such escrow to be used as determined by SpinCo in its sole and absolute discretion.

(iv) Parent shall bear all costs and expenses with respect to the escrow.

(v) SpinCo shall reasonably cooperate in good faith to amend this [Section 4.11\(b\)](#) at the reasonable request of Parent in order to (1) maximize the portion of the payments that may be made to the Parent Indemnitees hereunder without causing Parent to fail to meet the Specified REIT Requirements, (2) improve Parent's chances of securing a favorable ruling described in this [Section 4.11\(b\)](#), or (3) assist Parent in obtaining a favorable opinion from its outside tax counsel or determination from its tax accountants as described in this [Section 4.11\(b\)](#).

## ARTICLE V CERTAIN OTHER MATTERS

### 5.1 Insurance Matters.

(a) Parent and SpinCo agree to cooperate in good faith to provide for an orderly transition of insurance coverage from the date hereof through the Effective Time. In no event shall SpinCo, any other member of the SpinCo Group or any SpinCo Indemnitee have Liability or obligation whatsoever to any member of the Parent Group under this [Section 5.1](#) in the event that any

Policies shall be terminated or otherwise cease to be in effect for any reason, shall be unavailable or inadequate to cover any Liability of any member of the Parent Group for any reason whatsoever or shall not be renewed or extended beyond the current expiration date or as a result of the Policies and practices of SpinCo and the members of the SpinCo Group as in effect at any time, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any Policy, or the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise.

(b) From and after the Effective Time, with respect to any Liability incurred by any member of the Parent Group prior to the Effective Time, SpinCo will provide Parent with access to, including cooperating in good faith with Parent such that Parent may make claims under, Parent's Occurrence-Based Policies in place immediately prior to the Effective Time (which such Occurrence-Based Policies shall be allocated to SpinCo or any member of the SpinCo Group as of the Effective Time), but solely to the extent that such Occurrence-Based Policies provided coverage for members of the Parent Group prior to the Effective Time; provided that such access to, and the right to make claims under, such Occurrence-Based Policies, shall be subject to the terms, conditions and exclusions of such Occurrence-Based Policies, including but not limited to any limits on coverage or scope, any deductibles, retentions and other fees and expenses, and shall be subject to the following additional conditions:

(i) Parent shall notify SpinCo, as promptly as practicable, of any claim made by Parent pursuant to this Section 5.1(b);

---

-51-

(ii) Parent and the members of the Parent Group shall exclusively bear and be liable for (and neither SpinCo nor any members of the SpinCo Group shall have any obligation to repay or reimburse Parent or any member of the Parent Group for), and shall indemnify, hold harmless and reimburse SpinCo and the members of the SpinCo Group for any deductibles, retentions, coinsurance, fees, and retroactive and/or future premium increases and other expenses incurred by SpinCo or any members of the SpinCo Group to the extent resulting from any access to, or any claims made by Parent or any other members of the Parent Group or otherwise made in respect of losses of the Parent Business under, any insurance provided pursuant to this Section 5.1(b), including any indemnity payments, settlements, judgments, legal fees, allocated claims expenses and claim handling fees, whether such claims are made by Parent, its employees or third Persons; and

(iii) Parent shall exclusively bear (and neither SpinCo nor any members of the SpinCo Group shall have any obligation to repay or reimburse Parent or any member of the Parent Group for) and shall be liable for all excluded, uninsured, uncovered, unavailable or uncollectible amounts of all such claims made by Parent or any member of the Parent Group under the Occurrence-Based Policies as provided for in this Section 5.1(b). In the event an insurance policy aggregate is exhausted, or believed likely to be exhausted, due to noticed claims, the Parties shall discuss in good faith the reinstatement of the policy aggregate.

(c) Except as provided in Section 5.1(b), from and after the Effective Time, neither Parent nor any member of the Parent Group shall have any rights to or under any of the Policies of SpinCo or any other member of the SpinCo Group.

(d) Neither Parent nor any member of the Parent Group, in connection with making a claim under any Occurrence-Based Policies of SpinCo or any member of the SpinCo Group pursuant to this Section 5.1, shall take any action that would be reasonably likely to (i) have an adverse impact on the then-current relationship between SpinCo or any member of the SpinCo Group, on the one hand, and the applicable insurance company, on the other hand; (ii) result in the applicable insurance company terminating or materially reducing coverage under the applicable insurance policy; or (iii) otherwise compromise, jeopardize or interfere in any material respect with the rights of SpinCo or any member of the SpinCo Group under the applicable insurance policy; provided that Parent's or any member of the Parent Group's making of a claim (including any such claim caused to be made by an Affiliate of Parent on behalf of Parent or any member of the Parent Group) pursuant to Section 5.1(b), in and of itself, shall not be deemed to be an action that triggers the foregoing clauses (i), (ii) or (iii).

---

-52-



(e) All payments and reimbursements by Parent pursuant to this Section 5.1 will be made within forty-five (45) days after Parent's receipt of an invoice therefor from SpinCo. SpinCo shall retain the exclusive right to control its Policies, including the right to exhaust, settle, release, commute, buyback or otherwise resolve disputes with respect to any of its Policies and to amend, modify or waive any rights under any such Policies, notwithstanding whether any such Policies apply to any Parent Liabilities or claims Parent has made or could make in the future, and, except as expressly set forth in the last sentence of this Section 5.1(e), no member of the Parent Group shall exhaust, settle, release, commute, buyback or otherwise resolve disputes with SpinCo's insurers with respect to any of SpinCo's Occurrence-Based Policies, or amend, modify or waive any rights under any such Occurrence-Based Policies. Each Party shall reasonably cooperate with the other Party and share such information as is reasonably necessary in order to permit the other Party to manage and conduct its insurance matters. SpinCo shall use commercially reasonable efforts to obtain extended reporting for any claims made Policies or portions of Policies with claims made coverage features for acts or omissions by any member of the Parent Group incurred prior to the Effective Time. For the avoidance of doubt, each Party and any member of its applicable Group has the sole right to settle or otherwise resolve its claims under the Occurrence-Based Policies and third-party claims made against it or any member of its applicable Group covered under an applicable Policy.

(f) This Agreement shall not be considered as an attempted assignment of any Policy or as a contract of insurance and shall not be construed to waive any right or remedy of any member of the SpinCo Group or the Parent Group in respect of any Policy or any other contract or policy of insurance.

(g) This Section 5.1 shall not apply to any property insurance policies or Contracts of either Party or any of the members of its Group to the extent such policies or Contracts provided coverage for the SpinCo Properties as of the Effective Time, which shall be allocated to SpinCo or any member of the SpinCo Group as of the Effective Time pursuant to Section 2.1(a) without any access rights of Parent or any member of the Parent Group from and after the Effective Time.

5.2 Late Payments. Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement or any Ancillary Agreement (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within forty-five (45) days of such bill, invoice or other demand) shall accrue interest at a rate per annum equal to the Prime Rate plus two percent (2%).

5.3 Treatment of Payments for Tax Purposes. For all applicable income Tax purposes, the Parties agree to treat any payment required by this Agreement as set forth in Section 6.03(a) of the Tax Matters Agreement.

5.4 Inducement. SpinCo acknowledges and agrees that Parent's willingness to cause, effect and consummate the Separation and the Distribution has been conditioned upon and induced by SpinCo's covenants and agreements in this Agreement and the Ancillary Agreements, including SpinCo's assumption of the SpinCo Liabilities pursuant to the Separation and the provisions of this Agreement and SpinCo's covenants and agreements contained in Article IV.

5.5 Post-Effective Time Conduct. The Parties acknowledge that, after the Effective Time, each Party shall be independent of the other Party, with responsibility for its own actions and inactions and its own Liabilities relating to the conduct of its business, operations and activities following the Effective Time, except as may otherwise be provided in any Ancillary Agreement, and each Party shall (except as otherwise provided in Article IV) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party or another member of the other Party's Group.

-53-

---

## 5.6 Intellectual Property License.

(a) License to SpinCo. Effective as of the Effective Date and subject to the provisions of this Section 5.6, Parent, on behalf of itself and each member of the Parent Group, hereby grants to SpinCo and each member of the SpinCo Group a worldwide, irrevocable, perpetual, non-exclusive, fully paid-up and royalty-free license under the Parent Licensed IP to use, copy, distribute, disclose, make, modify, improve, display, and otherwise exploit such Parent Licensed IP in the current and future operation of the SpinCo Business.

(b) License to Parent. Effective as of the Effective Date and subject to the provisions of this Section 5.6, SpinCo, on behalf of itself and each member of the SpinCo Group, hereby grants to Parent and each member of the Parent Group a worldwide, irrevocable, perpetual, non-exclusive, fully paid-up and royalty-free license under the SpinCo Licensed IP to use, copy, distribute,

modify, make, improve, disclose, display, and otherwise exploit such SpinCo Licensed IP in the current and future operation of the Parent Business.

(c) Transfer of Licenses. Except as provided in Section 5.6(f), the licenses granted to a Party hereunder may only be assigned, in whole or in part, to any Affiliate, or in connection with a merger, consolidation, or sale of all, or substantially all, of any of the businesses or any material portion of the assets to which the license relates, so long as: (x) the assigning party provides the other party with prompt written notice of such transaction; (y) the assignment shall not be deemed to extend to other businesses or Affiliates of a successor and (z) the assignee agrees in writing to be bound by the applicable provisions of this Section 5.6. In the event of a permitted assignment hereunder, the assigning party shall be released from its obligations in this Section 5.6 that accrue or arise after the assignment date, and the provisions of this Section 5.6 shall bind the parties' respective permitted assigns thereafter. If any party sells or transfers any of its Intellectual Property Rights that are licensed by such party in this Section 5.6, the buyer or transferee shall be deemed automatically bound by the assigning party's obligations in this Section 5.6.

(d) Limitations.

(i) All rights and licenses granted from one Party to the other hereunder are granted "as is" and without any representation or warranty of any kind.

(ii) Each Party reserves all other rights and licenses to its Intellectual Property Rights not licensed hereunder, and no other licenses are granted under this Section 5.6 by implication, estoppel or otherwise.

(iii) Subject to Section 5.6(c), any rights or licenses granted hereunder extend to each entity that is a Party's Subsidiary but only for so long as such entity is a Subsidiary and accordingly the license to such entity shall terminate upon such entity ceasing to be a Subsidiary of such Party.

(e) Licenses Irrevocable. Each Party acknowledges and agrees that, following the Effective Date, the licenses granted by it, as the licensing Party, under this Section 5.6, except where expressly specified otherwise, are non-terminable and irrevocable, and that the licensing Party's sole remedy after the Effective Date for breach by the other Party, as the licensed Party, hereunder will be for such licensing Party to bring a claim to recover damages and to seek appropriate equitable relief but not termination of the licenses granted by it as the licensing Party hereunder.

-54-

---

(f) Sublicensing. Each Party, and the members of its Group, as a licensee under the licenses set forth in Sections 5.6(a) or 5.6(b), respectively (such Party and the members of its Group, in such capacity, a "Licensee"), may sublicense the license and rights granted to it by the other Party and members of its Group (such Party and the members of its Group in such capacity a "Licensor") to a third party in connection with the development, manufacture, sale, provision, use, or other exploitation of its products or services (in each case, within the scope of the applicable license granted to the Licensee under Sections 5.6(a) or 5.6(b), respectively). The Licensee shall treat any material trade secrets or confidential information that embodies, or is, licensed to the Licensee in the same manner, and with the same degree of care, that Licensee treats its own like confidential information and trade secrets, but in no event with less than reasonable care, and Licensee shall not disclose such trade secrets or confidential information licensed to it hereunder to a third party, except in connection with the disclosure of such Licensee's own confidential information or trade secrets of at least comparable importance and value and on the same terms.

(g) Bankruptcy Rights. All rights and licenses granted to a Licensee hereunder, are, for purposes of Section 365(n) of the United States Bankruptcy Code (the "Bankruptcy Code"), licenses of "intellectual property rights" within the scope of Section 101 of the Bankruptcy Code. The Licensor acknowledges that the Licensee, as a licensee of such rights and licenses hereunder, will retain and may fully exercise all of its rights and elections under the Bankruptcy Code. Each Licensor irrevocably waives all arguments and defenses arising under 11 U.S.C. § 365(c)(1) or successor provisions to the effect that applicable Law excuses such Licensor from accepting performance from or rendering performance to an entity other than the debtor or debtor-in-possession as a basis for opposing assumption of the licenses granted by this Section 5.6 in a case under Chapter 11 of the Bankruptcy Code to the extent that such consent is required under 11 U.S.C. § 365(c)(1) or any successor statute.

ARTICLE VI  
EXCHANGE OF INFORMATION; CONFIDENTIALITY

## 6.1 Agreement for Exchange of Information.

(a) Subject to Section 6.9 and any other applicable confidentiality obligations, each of Parent and SpinCo, on behalf of itself and each member of its Group, agrees to use commercially reasonable efforts to provide or make available, or cause to be provided or made available, to the other Party and the members of such other Party's Group, at any time before, at or after the Effective Time, during normal business hours as soon as reasonably practicable after reasonable advance written request therefor, any information (or a copy thereof) in the possession or under the control of such Party or its Group which the requesting Party or its Group requests to the extent that (i) such information relates to the SpinCo Business, or any SpinCo Asset or SpinCo Liability, if SpinCo is the requesting Party, or to the Parent Business, or any Parent Asset or Parent Liability, if Parent is the requesting Party; (ii) such information is reasonably required by the requesting Party to comply with its obligations under this Agreement or any Ancillary Agreement; or (iii) such information is reasonably required by the requesting Party to comply with any obligation imposed by any Governmental Authority; provided, however, that, in the event that counsel to the Party to whom the request has been made reasonably determines that any such provision of information would violate any applicable Law or Contract to which a member of the providing Party's Group is a party or, subject to Section 6.8, cause a risk of loss or waiver of the protection of any privilege available under applicable Law, including any attorney-client privilege, then in such instances the providing Party shall inform the requesting Party of the general nature of the information being withheld and the Parties shall use commercially reasonable efforts to permit compliance with such obligations to the extent and in a manner that avoids such consequence; provided, that in the event the consent of a third party is required for the disclosure of any such information, no Party shall be obligated to pay any consideration (or otherwise incur any Liability or obligation) therefor to any third party from whom any such consent is sought unless such Party is fully reimbursed or otherwise made whole by the requesting Party. The Party providing information pursuant to this Section 6.1 shall only be obligated to provide such information in the form, condition and format in which it then exists, and in no event shall such Party be required to perform any improvement, modification, conversion, updating or reformatting of any such information, and nothing in this Section 6.1 shall expand the obligations of a Party under Section 6.4.

-55-

---

(b) Without limiting the generality of the foregoing, until the end of the SpinCo fiscal year during which the Distribution Date occurs (and for a reasonable period of time afterwards as required for each Party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), each Party shall use its commercially reasonable efforts to cooperate with the other Party's information requests to enable (i) the other Party (to the extent applicable) to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Securities Act; and (ii) the other Party's accountants to timely complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other applicable Laws.

6.2 Ownership of Information. The provision of any information pursuant to Section 6.1 or Section 6.7 shall not affect the ownership of such information (which shall be determined solely in accordance with the terms of this Agreement and the Ancillary Agreements), or constitute a grant of rights in or to any such information.

6.3 Compensation for Providing Information. The Party requesting information pursuant to Section 6.1 agrees to reimburse the other Party for the reasonable and documented costs, if any, of creating, gathering, copying, transporting and otherwise complying with the request with respect to such information (including any reasonable and documented costs and expenses incurred in any review of information for purposes of protecting the Privileged Information of the providing Party or in connection with the restoration of backup media for purposes of providing the requested information) (which shall not include the costs of salaries and benefits of employees or any pro rata portion of overhead or other costs of employing employees which would have been incurred by such employees' employer regardless of the employees' assistance under this Section 6.3). Except as may be otherwise specifically provided elsewhere in this Agreement, any Ancillary Agreement or any other agreement between the Parties, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

-56-

---

6.4 Record Retention. To facilitate the possible exchange of information pursuant to this Article VI and other provisions of this Agreement after the Effective Time, the Parties agree to use their commercially reasonable efforts, which shall be no less rigorous than those used for retention of such Party's own information, to retain all information in their respective possession or control at the Effective Time, subject to the following sentence. If a Party or any other member of its Group wishes to destroy any information that relates to the other Group, then such Party shall use commercially reasonable efforts to give ninety (90) days' prior written notice, including a reasonable description of the information it wishes to destroy, to the other Party and (to the extent permitted by applicable Law) such other Party shall have the right at its option and expense, upon prior written notice given within such ninety (90) day period to the first Party, to take possession or make copies of such information within thirty (30) days after the date such notice is given by such other Party to the first Party. Notwithstanding the foregoing, Article 9 of the Tax Matters Agreement will govern the retention of Tax-related records.

6.5 Limitations of Liability. Neither Party shall have any Liability to the other Party in the event that any information exchanged or provided pursuant to this Agreement is found to be inaccurate in the absence of gross negligence, bad faith or willful misconduct by the Party providing such information. Neither Party shall have any Liability to any other Party if any information is destroyed after commercially reasonable efforts by such Party to comply with the provisions of Section 6.4.

6.6 Other Agreements Providing for Exchange of Information.

(a) The rights and obligations granted under this Article VI are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of information set forth in any Ancillary Agreement.

(b) Any Party that receives, pursuant to a request for information in accordance with this Article VI, Tangible Information that is not relevant to its request shall, at the request of the providing Party, (i) return it to the providing Party or, at the providing Party's request, destroy such Tangible Information; and (ii) deliver to the providing Party written confirmation that such Tangible Information was returned or destroyed, as the case may be, which confirmation shall be signed by an authorized representative of the requesting Party.

---

-57-

---

6.7 Production of Witnesses; Records; Cooperation.

(a) After the Effective Time, except in the case of a Dispute between Parent and SpinCo or an Action by SpinCo or Parent (or any member of their respective Groups) against the other Party (or any member of its Group), or any members of their respective Groups, each Party shall use its commercially reasonable efforts to make available to the other Party, upon reasonable written request, the former, current and future directors, officers, employees, other personnel, other Representatives (excluding Affiliates of Parent that are not members of the Parent Group) and agents of the members of its respective Group (to the extent practicable) as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available without undue burden, to the extent (i) that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with any Action in which the requesting Party (or member of its Group) may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder and (ii) there is no legal conflict in the Action between the requesting Party and the requested Party (or any member of their respective Groups) if they are both parties to or involved in the same Action; provided, that in the event any such access to requested books, records or other documents would violate any Law or, subject to Section 6.8, would reasonably be expected to result in the waiver of any attorney-client privilege, rights under the work product doctrine or other applicable privilege, the non-requesting Party shall not be required to provide such books, records or other documents to the requesting Party; provided, further, that (x) Parent shall not be obligated to make available to SpinCo any former officers or employees of Parent that were former officers or employees of Parent prior to the Effective Time and (y) the obligations of SpinCo under this Section 6.7(a) shall be deemed to include using commercially reasonable efforts to make available to Parent the former officers and employees of the Parent Group. The requesting Party shall bear the reasonable and documented costs and expenses in connection therewith upon presentation of invoices therefor (which shall not include the costs of salaries and benefits of employees who are witnesses or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as witnesses).

(b) If an Indemnifying Party chooses to defend or to seek to compromise or settle any Third-Party Claim, the other Party shall use commercially reasonable efforts to make available to such Indemnifying Party, upon reasonable written request, the former, current and future directors, officers, employees, other personnel, other Representatives (excluding Affiliates of Parent that are not members of the Parent Group) and agents of the members of its respective Group as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be, and shall otherwise cooperate in such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be.

(c) Without limiting the foregoing, the Parties shall cooperate and consult to the extent reasonably necessary with respect to any Actions except an Action by SpinCo or Parent (or any member of their respective Groups) against the other Party (or any member of its Group), including using reasonable best efforts to cooperate fully and maintain a joint defense where appropriate (in a manner that will preserve for the members of the Parent Group and the members of the SpinCo Group, as applicable, any Privileged Information with respect thereto).

---

-58-

---

#### 6.8 Privileged Matters.

(a) The Parties recognize that legal and other professional services that have been and will be provided prior to the Effective Time have been and will be rendered for the collective benefit of each of the members of the Parent Group and the SpinCo Group, and that each of the members of the Parent Group and the SpinCo Group should be deemed to be the client with respect to such services for the purposes of asserting all privileges that may be asserted under applicable Law in connection therewith.

(b) The Parties agree as follows:

(i) Parent shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the Parent Business and not to the SpinCo Business, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group. Parent shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any Parent Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group.

(ii) SpinCo shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the SpinCo Business and not to the Parent Business, whether or not the Privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group. SpinCo shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any SpinCo Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group.

(iii) If the Parties do not agree as to whether certain information is Privileged Information, then such information shall be treated as Privileged Information, and the Party that believes that such information is Privileged Information shall be entitled to control the assertion or waiver of all privileges and immunities in connection with any such information until the time as the Parties resolve the dispute as to whether the information is Privileged Information pursuant to the procedures set forth in Article VII or unless the Parties otherwise agree. The Parties shall use the procedures set forth in Article VII to resolve any disputes as to whether any information relates solely to the Parent Business, solely to the SpinCo Business, or to both the Parent Business and the SpinCo Business.

---

-59-

---

(c) Subject to the remaining provisions of this Section 6.8, the Parties agree that they shall have a shared privilege or immunity with respect to all privileges and immunities not allocated pursuant to Section 6.8(b) and all privileges and immunities relating to any Actions or other matters that involve both Parties (or one or more members of their respective Groups) and in respect of which both Parties have Liabilities under this Agreement, and that no such shared privilege or immunity may be waived by either Party without the consent of the other Party (not to be unreasonably withheld, conditioned or delayed).

(d) If any Dispute arises between the Parties or any members of their respective Groups regarding whether a privilege or immunity should be waived to protect or advance the interests of either Party or any member of their respective Groups, each Party agrees that it shall (i) negotiate with the other Party in good faith; (ii) endeavor to minimize any prejudice to the rights of the other Party; and (iii) not unreasonably withhold consent to any request for waiver by the other Party. Further, each Party specifically agrees that it shall not withhold its consent to the waiver of a privilege or immunity for any purpose except in good faith to protect its own or its Affiliates' legitimate interests.

(e) In the event of any Dispute between Parent and SpinCo, or any members of their respective Groups, either Party may waive a privilege in which the other Party or member of such other Party's Group has a shared privilege, without obtaining consent pursuant to Section 6.8(c); provided that such waiver of a shared privilege shall be effective only as to the use of information with respect to the Action between the Parties or the applicable members of their respective Groups, and shall not operate as a waiver of the shared privilege with respect to any Third Party.

(f) Upon receipt by either Party, or by any member of its respective Group, of any subpoena, discovery or other request that may reasonably be expected to result in the production or disclosure of Privileged Information subject to a shared privilege or immunity or as to which another Party has the sole right hereunder to assert a privilege or immunity, or if either Party obtains knowledge that any of its, or any member of its respective Group's, current or former directors, officers, agents or employees have received any subpoena, discovery or other requests that may reasonably be expected to result in the production or disclosure of such Privileged Information, such Party shall promptly notify the other Party of the existence of the request (which notice shall be delivered to such other Party no later than five (5) business days following the receipt of any such subpoena, discovery or other request, or if a response is due in less than five (5) business days, at least twenty-four (24) hours before the deadline for a response), shall provide the other Party a reasonable opportunity to review the Privileged Information and to assert any rights it or they may have under this Section 6.8 or otherwise, to prevent the production or disclosure of such Privileged Information.

(g) Any furnishing of, or access or transfer of, any information pursuant to this Agreement is made in reliance on the agreement of Parent and SpinCo set forth in this Section 6.8 and in Section 6.9 to maintain the confidentiality of Privileged Information and to assert and maintain all applicable privileges and immunities. The Parties agree that their respective rights to any access to information, witnesses and other Persons, the furnishing of notices and documents and other cooperative efforts between the Parties contemplated by this Agreement, and the transfer of Privileged Information between the Parties and members of their respective Groups as needed pursuant to this Agreement, shall not be deemed a waiver of any privilege that has been or may be asserted under this Agreement or otherwise.

-60-

---

(h) In connection with any matter contemplated by Section 6.7 or this Section 6.8, the Parties agree to, and to cause the applicable members of their Group to, use commercially reasonable efforts to maintain their respective separate and joint privileges and immunities, including by executing mutually acceptable joint defense or common interest agreements where necessary or useful for this purpose.

## 6.9 Confidentiality.

(a) *Confidentiality*. Subject to Section 6.10, from and after the Effective Time until the two (2)-year anniversary of the Effective Time, each of Parent and SpinCo, on behalf of itself and each member of its respective Group, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's confidential and proprietary information pursuant to policies in effect as of the Effective Time, all confidential and proprietary information concerning or belonging to the other Party or any member of the other Party's Group or their respective businesses that is either in its possession (including confidential and proprietary information in its possession prior to the date hereof) or furnished by any such other Party or any member of such Party's Group or their respective Representatives at any time pursuant to this Agreement, any Ancillary Agreement or

otherwise, and shall not use any such confidential and proprietary information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any member of such Party's Group or any of their respective Representatives in violation of this Agreement, (ii) later lawfully acquired from other sources by such Party (or any member of such Party's Group) which sources are not themselves bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information, or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of the other Party or any member of such Party's Group; provided, with respect to trade secrets of any other Party or any member of a Party's Group or their respective businesses, the foregoing obligations and restrictions shall remain in effect for so long as the relevant information remains a trade secret under applicable Law; provided, that each Party may disclose confidential and proprietary information (a) as required in connection with any Action by one Party or its Affiliates against the other Party or its Group, (b) as necessary to permit a Party or its Affiliates to prepare and disclose its financial statements, Tax Returns or other required disclosures, or (c) to other Persons in connection with their evaluation of, and negotiating and consummating, a potential strategic transaction, to the extent reasonably necessary in connection therewith, provided an appropriate and customary confidentiality agreement has been entered into with the Person receiving such information. If any confidential and proprietary information of one Party or any member of its Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential and proprietary information shall be used only as required to perform such services. Each Party shall be responsible for any breach of the terms of this Section 6.9 applicable to Representatives by its Representatives.

---

-61-

(b) *No Release; Return or Destruction.* Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 6.9(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who shall be advised of their obligations hereunder with respect to such information), and except in compliance with Section 6.10. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, and is no longer subject to any legal hold or other document preservation obligation, each Party will promptly after written request of the other Party or as required by applicable Law (including privacy Laws) either return to the other Party all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or destroy such information (and such copies thereof and such notes, extracts or summaries based thereon) and notify the other Party in writing that it has done so; provided that the Parties may retain electronic back-up versions of such information maintained on routine computer system backup tapes, disks or other backup storage devices; provided further, that any such information so retained shall remain subject to the confidentiality provisions of this Agreement or any such Ancillary Agreement.

(c) *Third-Party Information; Privacy or Data Protection Laws.* Each Party acknowledges that it and members of its Group may presently have and, following the Effective Time, may gain access to or possession of confidential or proprietary information of, or legally protected personal information relating to, Third Parties (i) that was received under privacy policies or confidentiality or non-disclosure agreements entered into between such Third Parties, on the one hand, and the other Party or members of such other Party's Group, on the other hand, prior to the Effective Time; or (ii) that, as between the two Parties, was originally collected by the other Party or members of such other Party's Group and that may be subject to and protected by privacy policies, as well as privacy, data protection or other applicable Laws. Each Party agrees that it shall hold, protect and use, and shall cause the members of its Group and its and their respective Representatives to hold, protect and use, in strict confidence the confidential and proprietary information of, or legally protected personal information relating to, Third Parties in accordance with privacy policies and privacy, data protection or other applicable Laws and the terms of any agreements that were either entered into before the Effective Time or affirmative commitments or representations that were made before the Effective Time by, between or among the other Party or members of the other Party's Group, on the one hand, and such Third Parties, on the other hand.

---

-62-

6.10 Protective Arrangements. If a Party, any member of its Group or any of either Party's Affiliates either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any member of the

other Party's Group) that is subject to the confidentiality provisions hereof, such Party, applicable member of such Party's Group or applicable Affiliate shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate to the extent reasonably requested, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. If such other Party fails to receive such appropriate protective order in a timely manner and the Party, applicable member of such Party's Group or applicable Affiliate receiving the request or demand reasonably determines that disclosing or providing such information is required by applicable Law or may actually prejudice the Party, applicable member of such Party's Group or applicable Affiliate receiving the request or demand, then the Party, applicable member of such Party's Group or applicable Affiliate that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing party shall as far in advance as reasonably possible provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case, to the extent legally permitted, and will exercise all commercially reasonable efforts, at the expense of the other Party, to obtain reliable assurance that confidential treatment will be accorded the information disclosed. Notwithstanding the foregoing, notice shall not be required where disclosure is made (i) in response to a routine request by a regulatory or self-regulatory authority or (ii) in connection with a routine audit or examination by a bank examiner or auditor and, in each case, such request, audit or examination does not specifically target the other Party or its Group, the transactions contemplated hereby or the Merger, the information subject to the confidentiality provisions hereof or this Agreement, any Ancillary Agreement or the Merger Agreement, provided that the applicable party making such disclosure shall, to the extent practicable, request the confidential treatment of any disclosed information.

## ARTICLE VII DISPUTE RESOLUTION

7.1 Good Faith Officer Negotiation. Either Party seeking resolution of any dispute, cause of action, controversy or claim relating to this Agreement or any Ancillary Agreement (including regarding whether any Assets are SpinCo Assets or Parent Assets, any Liabilities are SpinCo Liabilities or Parent Liabilities or the validity, interpretation, breach or termination of this Agreement or any Ancillary Agreement) (a "Dispute"), shall provide written notice thereof to the other Party (the "Officer Negotiation Request"). Within fifteen (15) days of the delivery of the Officer Negotiation Request, the Parties shall attempt to resolve the Dispute through good faith negotiation. All such negotiations shall be conducted by executives or officers who have authority to settle the Dispute. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable for any reason to resolve a Dispute within forty-five (45) days of receipt of the Officer Negotiation Request, and such forty-five (45)-day period is not extended by mutual written consent of the Parties, the dispute shall be submitted to mandatory mediation in accordance with Section 7.2.

7.2 Mediation. In the event that a Dispute has not been resolved within forty-five (45) days of the receipt of an Officer Negotiation Request in accordance with Section 7.1, or within such longer period as the Parties may agree to in writing, then such Dispute shall, upon the written request of a Party (the "Mediation Request"), be submitted to mandatory mediation in accordance with the International Institute for Conflict Prevention & Resolution ("CPR") Mediation Procedure (the "Procedure") then in effect, except as modified herein. The mediation shall be held in New York City, New York, or such other place as the Parties may mutually agree in writing. The Parties shall have fifteen (15) days from receipt of a Mediation Request to agree on a mediator. If no mediator has been agreed upon by the Parties within fifteen (15) days of receipt of a Mediation Request, then any Party may request (on written notice to the other Party) that CPR assist in the appointment of a mediator in accordance with the Procedure. If the Dispute has not been resolved within thirty (30) days of the appointment of a mediator, or within such longer period as the Parties may agree to in writing, either Party may commence litigation in accordance with Section 10.2; provided, however, that if one Party fails to participate in the mediation by failing to attend at least one mediation conference, if any, or failing to make at least one submission required by the mediator, if any, the other Party may commence litigation in accordance with Section 10.2 prior to the expiration of the time periods set forth above. The Parties agree to bear equally the CPR and mediator's costs.

-63-

7.3 Preliminary Relief. Notwithstanding the foregoing provisions of this Article VII, a Party may seek preliminary provisional or injunctive judicial relief with respect to a Dispute without first complying with the procedures set forth in Section 7.1 and Section 7.2 if such action is reasonably necessary to avoid irreparable damage.



7.4 Conduct During Dispute Resolution Process. Unless otherwise agreed upon in writing, the Parties shall, and shall cause the respective members of their Groups to, continue to honor all commitments under this Agreement and each Ancillary Agreement to the extent required by such agreements during the course of dispute resolution pursuant to the provisions of this Article VII.

ARTICLE VIII  
FURTHER ASSURANCES AND ADDITIONAL COVENANTS

8.1 Further Assurances.

(a) In addition to and without limiting the actions specifically provided for elsewhere in this Agreement, each of the Parties shall (and shall cause the other members of their respective Group to) use its reasonable best efforts, prior to, at and after the Effective Time, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Without limiting the foregoing, and unless otherwise expressly provided in this Agreement, prior to, at and after the Effective Time, each Party shall (and shall cause the other members of their respective Group to) cooperate with the other Party, and without any further consideration, but at the expense of the requesting Party, to execute and deliver, or use its reasonable best efforts to cause to be executed and delivered, all instruments, including instruments of Transfer, and to make all filings with, and to obtain all Approvals or Notifications of, any Governmental Authority or any other Person under any permit, license, Contract, indenture or other instrument (including any consents or Governmental Approvals), and to take all such other actions as such Party may reasonably be requested to take by the other Party from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, to effectuate the provisions and purposes of this Agreement and the Ancillary Agreements and the transfers of the SpinCo Assets and the Parent Assets and the assignment and assumption of the SpinCo Liabilities and the Parent Liabilities and the other transactions contemplated hereby and thereby. Without limiting the foregoing, each Party will, at the reasonable request, cost and expense of the other Party, take such other actions as may be reasonably necessary to vest in such other Party such title and such rights as possessed by the transferring Party to the Assets allocated to such other Party under this Agreement or any of the Ancillary Agreements, free and clear of any Security Interest.

-64-

---

(c) At or prior to the Effective Time, Parent and SpinCo in their respective capacities as direct and indirect shareholders of the members of their Groups, shall each ratify any actions that are reasonably necessary or desirable to be taken by Parent, SpinCo or any of the members of their respective Groups, as the case may be, to effectuate the transactions contemplated by this Agreement and the Ancillary Agreements in accordance with the terms hereof and thereof.

8.2 Use of Bluerock Names and Bluerock Marks. From and after the Effective Time, Parent and its controlled Affiliates shall be permitted to use the Bluerock Names and Bluerock Marks for a period of one hundred eighty (180) days for the purpose of winding down such use; provided that Parent and its controlled Affiliates shall use commercially reasonable efforts to minimize and eliminate the use of the Bluerock Names and Bluerock Marks as soon as reasonably practicable; provided, further, that from and after such one hundred eighty (180)-day period, Parent and its controlled Affiliates may no longer use the Bluerock Names and Bluerock Marks or any Trademark confusingly similar thereto and Parent and its controlled Affiliates shall not purport to authorize any other Persons to use such Bluerock Names and Bluerock Marks or any Trademark confusingly similar thereto, whether as a trademark, service mark, corporate, trade or d/b/a name, logo or otherwise. For clarity, the use by Parent and its controlled Affiliates of any Trademarks containing or comprised of the acronyms “BR”, “BRG” and “BEMT”, including reasonable derivations thereof, solely in the manner in which such acronyms were used prior to the Effective Time, shall not be considered a violation of this Section 8.2. From and after the Effective Time, BRE, SpinCo and their respective Affiliates shall cease all use of the Bluerock Trademark or any Trademark confusingly similar thereto and shall not purport to authorize any other Persons to use such Trademark, whether as a trademark, service mark, corporate, trade or d/b/a name, logo or otherwise. Notwithstanding the foregoing, from and after the Effective Time, Parent and its controlled Affiliates shall be permitted to use the Bluerock Names and Bluerock Marks, and BRE, SpinCo and their respective Affiliates shall be permitted to use the Bluerock Trademark, in each case (a) in legal and business materials that exist as of the Effective Time and are not visible to the general public, (b) in a neutral, non-trademark manner to describe the history of Parent, BRE, SpinCo and the relationship of the Parties and (c) as required by applicable Law; provided that such use does not give rise to a likelihood of confusion as to the source or origin of any goods or services or imply any endorsement by, or ongoing association with, BRE, (in the case of Parent) SpinCo, (in the case of SpinCo) Parent, or their respective controlled Affiliates.

8.3 Reimbursement Obligations. From and after the Closing (as defined in the Merger Agreement), to the extent that SpinCo, any other member of the SpinCo Group, their respective Affiliates or their respective Representatives incurred any Liabilities, losses, Taxes, damages, claims, costs, expenses, interest, awards, judgments or penalties for which Badger is subject to the Reimbursement Obligations (as defined in the Merger Agreement), then SpinCo shall be entitled to the benefits of the Reimbursement Obligations (as defined in the Merger Agreement) to the extent not discharged by or on behalf of Badger at or prior to the Closing (as defined in the Merger Agreement), except that they shall be obligations of Parent, *mutatis mutandis*.

-65-

---

8.4 Transaction Litigation. From and after the Closing (as defined in the Merger Agreement), SpinCo shall control the defense, settlement or prosecution of any Company Transaction Litigation (as defined in the Merger Agreement); provided that SpinCo shall not compromise, settle or agree to compromise or settle any Company Transaction Litigation without Parent's prior written consent (not to be unreasonably withheld, conditioned or delayed). From and after the Closing, SpinCo shall, subject to the preservation of privilege and confidential and proprietary information, give Parent the opportunity to participate in (but not control) the defense or settlement of any Company Transaction Litigation and shall give due consideration to Parent's advice with respect to such Company Transaction Litigation. The first amount of Liabilities incurred by either Party or its Affiliates (whether arising before or after the Closing) relating to any Company Transaction Litigation (including the defense, settlement or prosecution thereof), including any indemnification obligations of Parent (including pursuant to Section 6.8 of the Merger Agreement) up to the Deductible Amount (as defined on Schedule 8.4), will be borne by Parent, with Liabilities above the Deductible Amount to be borne twenty-five percent (25%) by SpinCo and seventy-five percent (75%) by Parent. To the extent any Company Transaction Litigation results in the repayment of SpinCo Debt, such repayment shall be borne by SpinCo.

#### ARTICLE IX TERMINATION

9.1 Termination. This Agreement and all Ancillary Agreements may be terminated and the Distribution may be abandoned at any time prior to the Effective Time by Parent, in its sole and absolute discretion, without the approval or consent of any other Person, including SpinCo; provided, that (a) any such termination of this Agreement or the Tax Matters Agreement shall require the prior written consent of Badger (not to be unreasonably withheld, delayed or conditioned), and (b) any such termination of any other Ancillary Agreement that would be adverse (other than in a *de minimis* respect) to the Parent Group or, after giving effect to the consummation of the Merger, Badger, shall require the prior written consent of Badger (not to be unreasonably withheld, delayed or conditioned). After the Effective Time, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of the Parties; provided, that prior to the consummation of the Merger, Badger's prior written consent shall be required (not to be unreasonably withheld, delayed or conditioned).

9.2 Effect of Termination. In the event of any termination of this Agreement prior to the Effective Time, no Party, SpinCo Non-Recourse Party, Parent Non-Recourse Party or Badger Non-Recourse Party shall have any Liability or further obligation to the other Parties or any other Person by reason of this Agreement. In the event the Merger Agreement is terminated in accordance with its terms, this Agreement shall automatically terminate with respect to Badger and Badger shall no longer have any consent, approval or other rights hereunder or any Liability or further obligation to any other Person by reason of this Agreement.

-66-

---

#### ARTICLE X MISCELLANEOUS

##### 10.1 Counterparts; Entire Agreement; Corporate Power.

(a) This Agreement and each Ancillary 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. Each Party acknowledges that it and each other Party is executing certain of the Ancillary

Agreements by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement or any Ancillary Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement or any Ancillary Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person.

(b) This Agreement, the Merger Agreement, the Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement among the parties to this Agreement with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings among the parties to this Agreement with respect to such subject matter other than those set forth or referred to herein or therein. This Agreement, the Merger Agreement and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered independently. In the event and to the extent that there shall be a conflict between the provisions of (a) this Agreement or any Ancillary Agreement, on the one hand, and the provisions of the Merger Agreement (excluding the Separation Principles (as defined therein)), on the other hand, at or prior to the Closing (as defined in the Merger Agreement), the Merger Agreement shall control, and following the Closing (as defined in the Merger Agreement), this Agreement or the applicable Ancillary Agreement shall control, (b) this Agreement and any Ancillary Agreement other than the Tax Matters Agreement, this Agreement shall control and (c) this Agreement and the Tax Matters Agreement, the Tax Matters Agreement shall control with respect to the subject matter addressed by the Tax Matters Agreement.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization;

(ii) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary to execute, deliver and perform this Agreement and each Ancillary Agreement to which it is a party and to consummate the transactions contemplated hereby and thereby; and

-67-

---

(iii) this Agreement and each Ancillary Agreement to which it is a party has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms thereof.

#### 10.2 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and, unless expressly provided therein, each Ancillary Agreement, and all Disputes that may be based upon, arise out of or relate to this Agreement or such Ancillary Agreement or the negotiation, execution or performance hereof or thereof, shall be governed by and construed in accordance with the laws of the State of Maryland, without giving effect to any choice or conflict of law provision or rule (whether of the State of Maryland or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Maryland. Subject to Article VII, each of the Parties, on behalf of itself and the members of its Group (as applicable), irrevocably agrees that it shall bring any Action in respect of any claim arising out of or related to this Agreement (and, unless otherwise expressly provided therein, each Ancillary Agreement) and the rights and obligations arising in connection herewith or therewith, or for recognition and enforcement of any judgment in respect of this Agreement (and, unless otherwise expressly provided therein, each Ancillary Agreement) and the rights and obligations arising hereunder or thereunder brought by any other Party or its successors or assigns (“Proceedings”), exclusively in (i) the Circuit Court for Baltimore City, Maryland, (ii) in the event (but only in the event) that such court does not have subject matter jurisdiction over such Proceeding, the United States District Court for the District of Maryland, Baltimore Division or (iii) in the event (but only in the event) that such courts identified in clauses (i) and (ii) do not have subject matter jurisdiction over such Proceeding, any other state or federal court located within the State of Maryland (the “Chosen Courts”), and solely in connection with Proceedings (A) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (B) irrevocably waives any claim that it is not personally subject to the jurisdiction of the Chosen Courts for any reason other than the failure to serve in accordance with this Section 10.2 and any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in the Chosen Courts (whether through service of notice,

attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), (C) irrevocably submits to the exclusive venue of any such Proceeding in the Chosen Courts and waives any objection to laying venue in any such Proceeding in the Chosen Courts and (D) waives any objection that the Chosen Courts are an inconvenient forum, do not have jurisdiction over any Party or that this Agreement (and, unless otherwise expressly provided therein, each Ancillary Agreement), or the subject matter hereof or thereof, may not be enforced in or by such courts. In the case of any Proceeding in the Circuit Court for Baltimore City, Maryland or any other state court located in the State of Maryland, each of the Parties irrevocably agrees to request and/or consent to the assignment of any such Proceeding to such court's Business and Technology Case Management Program. Each Party agrees that a final judgment in any Proceeding brought in the Chosen Courts shall be conclusive and binding upon each of the Parties and may be enforced in any other courts the jurisdiction of which each of the Parties is or may be subject, by suit upon such judgment. Each Party irrevocably consents to service of process in the manner provided for notices in Section 10.5 in accordance with applicable Law and agrees that service made in such manner shall have the same legal force and effect as if served upon such Party personally within the State of Maryland. Nothing in this Agreement shall affect the right of any Party to serve process in any other manner permitted by Law.

-68-

---

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR ANY ANCILLARY AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HERewith OR THEREwith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (III) IT MAKES SUCH WAIVERS VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.2(B).

10.3 Assignability. Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the Parties and the parties thereto, respectively, and their respective successors (including, for the avoidance of doubt, Badger Merger Sub LLC as successor to Parent as a result of the Merger) and permitted assigns; provided, however, that no Party nor any such party thereto may assign its rights or delegate its obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other Parties hereto or other parties thereto, as applicable. Any attempt to assign any rights or obligations arising under this Agreement in violation of this Section 10.3 shall be null and void *ab initio*. Notwithstanding the foregoing, no such consent shall be required for the assignment of a Party's rights and obligations under this Agreement and the Ancillary Agreements (except as may be otherwise provided in any such Ancillary Agreement) in whole (*i.e.*, the assignment of a Party's rights and obligations under this Agreement and all Ancillary Agreements all at the same time) in connection with a change of control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the relevant party thereto by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the other Parties.

10.4 Third-Party Beneficiaries. Except for the indemnification rights under this Agreement and each Ancillary Agreement of any Parent Indemnitee or SpinCo Indemnitee in their respective capacities as such, and the release of Parent Non-Recourse Parties, Badger Non-Recourse Parties and SpinCo Non-Recourse Parties under this Agreement, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the Parties and are not intended to confer upon any Person except the Parties any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement or any Ancillary Agreement and neither this Agreement nor any Ancillary Agreement shall provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

-69-

---

10.5 Notices. All notices, requests, claims, demands or other communications under this Agreement and, to the extent applicable and unless otherwise provided therein, under each of the Ancillary Agreements, shall be in writing and shall be given or

made (a) upon personal delivery to the Party to be notified; (b) when sent by email to the Party to be notified (provided that no automated notice of delivery failure is received by the sender); or (c) when delivered by a courier (with confirmation of delivery); in each case to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.5):

If to Parent or New LLC (prior to the Effective Time), to:

Bluerock Residential Growth REIT, Inc.  
1345 Avenue of the Americas, 32nd Floor  
New York, NY 10105  
Attention: Michael Konig  
E-mail: [mkonig@bluerock.com](mailto:mkonig@bluerock.com)

If to Parent or New LLC (from and after the Effective Time) or to Badger, to:

c/o Blackstone Inc.  
345 Park Avenue  
New York, NY 10154  
Attention: Jacob Werner  
Email: [realestatenotices@blackstone.com](mailto:realestatenotices@blackstone.com)  
[Werner@Blackstone.com](mailto:Werner@Blackstone.com)

If to SpinCo or the OP, to:

Bluerock Homes Trust, Inc.  
1345 Avenue of the Americas, 32nd Floor  
New York, NY 10105  
Attention: Jason Emala  
E-mail: [jemala@bluerock.com](mailto:jemala@bluerock.com)

A Party may, by notice to the other Parties, change the address to which such notices are to be given.

10.6 Severability. If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

-70-

---

10.7 Force Majeure. No Party shall be deemed in default of this Agreement or, unless otherwise expressly provided therein, any Ancillary Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder or thereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such Force Majeure, (a) provide written notice to the other Parties of the nature and extent of any such Force Majeure; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement and the Ancillary Agreements, as applicable, as soon as reasonably practicable.

10.8 No Set-Off. Except as expressly set forth in any Ancillary Agreement or as otherwise mutually agreed to in writing by the Parties, no Party or any member of such Party's Group (as applicable) shall have any right of set-off or other similar rights with respect to amounts owed to any other Party or any member of such Party's Group (as applicable) pursuant to this Agreement or any

Ancillary Agreement on account of any obligation owed by such other Party or any member of its Group (as applicable) to the first Party or any member of its Group (as applicable).

10.9 Headings. The article, section and paragraph headings contained in this Agreement and in the Ancillary Agreements are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or any Ancillary Agreement.

10.10 Survival. Except as expressly set forth in this Agreement or any Ancillary Agreement, the covenants, representations and warranties contained in this Agreement and each Ancillary Agreement, and Liability for the breach of any representations, warranties, covenants or obligations contained herein, shall survive the Separation and the Distribution and shall remain in full force and effect.

10.11 Waivers of Default. Waiver by a Party of any default by another Party of any provision of this Agreement or any Ancillary Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the waiving Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement or any Ancillary Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

10.12 Specific Performance. Subject to the provisions of Article VII, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement or any Ancillary Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief (on an interim or permanent basis) in respect of its or their rights under this Agreement or such Ancillary Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, may be inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

---

-71-

10.13 Amendments. No provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification; provided, that prior to the Closing (as defined in the Merger Agreement), any waiver, amendment, supplement or modification that is adverse (other than in a *de minimis* respect) to the Parent Group or, after giving effect to the consummation of the Merger, Badger, shall require the prior written consent of Badger (not to be unreasonably withheld, delayed or conditioned).

10.14 Interpretation. In this Agreement and any Ancillary Agreement, (a) definitions are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms; (b) the terms “hereof,” “herein” and “hereunder” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the applicable Ancillary Agreement) as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto, as applicable) and not to any particular provision of this Agreement (or such Ancillary Agreement), unless the context otherwise requires; (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement (or the applicable Ancillary Agreement) unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and each Ancillary Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules, Exhibits and Appendices) to such agreement; (e) the word “include”, “includes” and “including” when used in this Agreement (or the applicable Ancillary Agreement) shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) unless expressly specified in a particular case, the word “days” refers to calendar days; (h) references to “business day” shall mean any day other than a Saturday, a Sunday or any other day on which commercial banks in New York, New York are authorized or required by Law to remain closed; (i) references to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as it may be amended, modified or supplemented from time to time, unless otherwise specified; (j) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; (k) unless expressly stated to the contrary in this Agreement or any Ancillary Agreement, all references to “the date hereof” or “the date of this Agreement” and words of similar import shall all be references to October 5, 2022; (l) references to “\$” or “dollars” shall be to U.S. dollars; (m) references to “written” or “in writing” include in electronic form; (n) all terms defined in this Agreement (or the applicable Ancillary Agreement) have the defined meanings when used

in any certificate or other document made or delivered pursuant thereto unless otherwise defined therein; (o) a reference to any Person includes such Person's successors and permitted assigns; (p) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement (or the applicable Ancillary Agreement), the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a business day, the period shall end on the next succeeding business day; (q) to the extent that any covenant or agreement in this Agreement (or an Ancillary Agreement) requires a controlled Affiliate of any Party to take or omit to take any action, such covenant or agreement includes the obligation of such Party to cause such controlled Affiliate to take or omit to take such action, whether or not such covenant or agreement expressly so states; (r) references in this Agreement (or any Ancillary Agreement) to the "transactions contemplated hereby," the "transactions contemplated by this Agreement" and words or phrases of similar import shall include the Separation or the Distribution and the transactions contemplated thereby; and (s) references in this Agreement (or any Ancillary Agreement) to the "ordinary course of business" with respect to any Person shall refer to an action taken by a Person that is consistent in all material respects in nature, scope, and magnitude with the past practices of such Person and is taken in the ordinary course of the normal operations of such Person (including, for the avoidance of doubt, any good faith response to COVID-19 Measures (as defined in the Merger Agreement) prior to the date of this Agreement).

---

-72-

---

10.15 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, neither SpinCo or any member of the SpinCo Group, on the one hand, nor Parent or any member of the Parent Group, on the other hand, shall be liable under this Agreement to the other for any indirect, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated by this Agreement (other than any such damages to the extent awarded to a Third Party with respect to a Third-Party Claim).

10.16 Performance. Badger will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by Parent or any other member of the Parent Group after the Closing (as defined in the Merger Agreement), and Parent will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the Parent Group. SpinCo will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the SpinCo Group. Each of SpinCo and Parent (including its permitted successors and assigns) further agrees that it will (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement and any applicable Ancillary Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement, any Ancillary Agreement or the transactions contemplated hereby or thereby.

10.17 Mutual Drafting. This Agreement and the Ancillary Agreements shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

---

-73-

---

10.18 Expenses. Except as otherwise expressly set forth in this Agreement or any Ancillary Agreement, or as otherwise agreed to in writing by the Parties, all out-of-pocket fees, costs and expenses of investment bankers, legal counsel, accountants, experts and other third-party professional advisors, SEC filing fees, printing and mailing costs, proxy solicitation costs and Transfer Taxes incurred in connection with the transactions contemplated by the Merger Agreement and the transactions contemplated by this Agreement and the Ancillary Agreements will be borne, to the extent incurred by or on behalf of any Party or the members of its Group (as applicable) at or prior to the Effective Time, by Parent, and to the extent incurred at any time following the Effective Time, by the Party or its applicable Subsidiary incurring such fees, costs or expenses.

10.19 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of one or more of the following Sections: Section 4.3; Section 4.4; and Section 4.5).

*[Remainder of page intentionally left blank]*

-74-

---

IN WITNESS WHEREOF, the Parties have caused this Separation and Distribution Agreement to be executed by their duly authorized representatives as of the date first written above.

BLUEROCK RESIDENTIAL GROWTH REIT, INC.

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: Chief Operating Officer and President

BADGER PARENT LLC

By: /s/ Asim Hamid

Name: Asim Hamid

Title: Senior Managing Director and Vice President

BADGER HOLDCO LLC

By: BLUEROCK RESIDENTIAL HOLDINGS, L.P., its Sole  
Member

By: BLUEROCK RESIDENTIAL GROWTH REIT, INC., its  
General Partner

By: /s/ Jordan B. Ruddy

Name: Jordan B. Ruddy

Title: Chief Operating Officer and President

BLUEROCK RESIDENTIAL HOLDINGS, L.P.

By: BLUEROCK RESIDENTIAL GROWTH REIT, INC., its  
General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: Chief Operating Officer and President

---

BLUEROCK HOMES TRUST, INC.

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

-2-

---





**BLUEROCK HOMES TRUST, INC.**

**SECOND ARTICLES OF AMENDMENT AND RESTATEMENT**

**FIRST:** Bluerock Homes Trust, Inc., a Maryland corporation (the “Corporation”), desires to amend and restate its charter as currently in effect and as hereinafter amended.

**SECOND:** The following provisions are all the provisions of the charter currently in effect and as hereinafter amended:

**ARTICLE I**

**NAME**

The name of the corporation (which is hereinafter called the “Corporation”) is:

Bluerock Homes Trust, Inc.

**ARTICLE II**

**PURPOSES AND POWERS**

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust under the Internal Revenue Code of 1986, as amended, or any successor statute (the “Code”)) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force. For purposes of the Charter, “REIT” means a real estate investment trust under Sections 856 through 860, or any successor sections, of the Code.

**ARTICLE III**

**PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT**

The address of the principal office of the Corporation in the State of Maryland is c/o CSC — Lawyers Incorporating Service Company, 7 Saint Paul Street, Suite 820, Baltimore, Maryland 21202. The name and address of the resident agent of the Corporation are CSC — Lawyers Incorporating Service Company, 7 Saint Paul Street, Suite 820, Baltimore, Maryland 21202. The resident agent is a Maryland corporation. The Corporation may have such other offices and places of business within or outside the State of Maryland as the Board of Directors may from time to time determine.

---

**ARTICLE IV**

**DEFINITIONS**

As used in the Charter, the following terms shall have the following meanings unless the context otherwise requires:

**Affiliate.** The term “Affiliate” shall mean, with respect to any Class C Person, (i) any Class C Person directly or indirectly Controlling, Controlled by or under common Control with such Class C Person, or (ii) any officer, director, general partner or trustee of such Class C Person or any Class C Person referred to in the foregoing clause (i).

**Aggregate Share Ownership Limit.** The term “Aggregate Share Ownership Limit” shall mean 9.8% in value of the aggregate of the outstanding Shares or such other percentage determined by the Board in accordance with Section 6.1.8 of the Charter.

Beneficial Ownership. The term “Beneficial Ownership” shall mean ownership of Shares by a Person, whether the interest in Shares is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code; provided, however, that in determining the number of shares Beneficially Owned by a Person, no share shall be counted more than once. Whenever a Person Beneficially Owns Shares that are not actually outstanding (*e.g.* Shares issuable upon the exercise of an option or the conversion of a convertible security) (“Option Shares”), then, whenever the Charter requires a determination of the percentage of outstanding Shares Beneficially Owned by such Person, the Option Shares Beneficially Owned by such Person shall also be deemed to be outstanding. The terms “Beneficial Owner,” “Beneficially Owns” and “Beneficially Owned” shall have the correlative meanings.

Board or Board of Directors. The term “Board” or “Board of Directors” shall mean the Board of Directors of the Corporation.

Business Day. The term “Business Day” shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

Bylaws. The term “Bylaws” shall mean the Bylaws of the Corporation, as amended from time to time.

C-Common Unit. The term “C-Common Unit” shall have the meaning set forth in the Partnership Agreement.

Class A Common Stock. The term “Class A Common Stock” shall have the meaning as provided in Section 5.2.5.

Class C Beneficial Owner. The term “Class C Beneficial Owner” (and, with correlative meaning, “Class C Beneficial Ownership”) has the meaning of “beneficial owner” set forth in Rule 13d-3 of the Exchange Act, except that, in calculating the Class C Beneficial Ownership of any particular Class C Person, such Class C Person will be deemed to have Class C Beneficial Ownership of all securities that such Class C Person has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time.

-2-

---

Class C Common Stock. The term “Class C Common Stock” shall have the meaning as provided in Section 5.2.5.

Class C Person. The term “Class C Person” shall mean an individual or a corporation, partnership (general or limited), trust, estate, custodian, nominee, unincorporated organization, association or limited liability company or any other individual or entity in its own or any representative capacity, and also includes a group as that term is used for purposes of Section 13(d)(3) of the Exchange Act.

Class C Transfer. The term “Class C Transfer” shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Class C Person to acquire Class C Beneficial Ownership of Shares or the right to vote or receive dividends on Shares, or any agreement to take any such actions or cause any such events, including (i) the granting or exercise of any option (or any disposition of any option), (ii) any disposition of any securities or rights convertible into or exchangeable for Shares or any interest in Shares or any exercise of any such conversion or exchange right and (iii) any issuance, sale, transfer, gift, assignment, devise or other disposition of interests in other entities that result in changes in Class C Beneficial Ownership of Shares; in each case, whether voluntary or involuntary, whether owned of record or Class C Beneficially Owned and whether by operation of law or otherwise; provided that for purposes hereof, “Class C Transfer” shall not include any hypothecation, pledge or security interest that does not include a transfer or sharing of any voting rights of such securities unless and until the secured party gains possession or control of any such voting rights. The terms “Class C Transferring” and “Class C Transferred” shall have the correlative meanings.

C-LTIP Unit. The term “C-LTIP Unit” shall have the meaning set forth in the Partnership Agreement.

Charitable Beneficiary. The term “Charitable Beneficiary” shall mean one or more beneficiaries of the Trust as determined pursuant to Section 6.2.6; provided that each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Charter. The term “Charter” shall mean the charter of the Corporation.

Code. The term “Code” shall have the meaning as provided in Article II herein.

Common Share Ownership Limit. The term “Common Share Ownership Limit” shall mean 9.8% (in value or in number of Common Shares, whichever is more restrictive) of the aggregate of the outstanding Common Shares or such other percentage determined by the Board in accordance with Section 6.1.8 of the Charter.

Common Shares. The term “Common Shares” shall have the meaning as provided in Section 5.1 herein.

Common Unit. The term “Common Unit” shall have the meaning set forth in the Partnership Agreement.

-3-

---

Constructive Ownership. The term “Constructive Ownership” shall mean ownership of Shares by a Person, whether the interest in Shares is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms “Constructive Owner,” “Constructively Owns” and “Constructively Owned” shall have the correlative meanings.

Control. The term “Control” shall mean, when used with respect to any Class C Person, the power to direct the management and policies of such Class C Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “Controlling” and “Controlled” have meanings correlative to the foregoing.

Corporation. The term “Corporation” shall have the meaning as provided in Article I herein.

Director. The term “Director” shall have the meaning as provided in Section 7.1 herein.

Distributions. The term “Distributions” shall mean any distributions (as such term is defined in Section 2-301 of the MGCL) by the Corporation to owners of Shares, including distributions that may constitute a return of capital for federal income tax purposes.

DTC. The term “DTC” shall have the meaning as provided in Section 5.2.6(c) herein.

Excepted Holder. The term “Excepted Holder” shall mean a Stockholder for whom an Excepted Holder Limit is created by the Board of Directors pursuant to Section 6.1.7.

Excepted Holder Limit. The term “Excepted Holder Limit” shall mean, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Directors pursuant to Section 6.1.7 and subject to adjustment pursuant to Section 6.1.8, the percentage limit established by the Board of Directors pursuant to Section 6.1.7.

Exchange Act. The term “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended from time to time, or any successor statute thereto.

Executive. The term “Executive” means each of R. Ramin Kamfar, James G. Babb, III, Jordan B. Ruddy, Ryan S. MacDonald, Christopher J. Vohs, Michael DiFranco and Jason Emala, in each case for so long as he remains employed by the Corporation or any of its Affiliates.

External Manager. The term “External Manager” shall have the meaning as provided in Section 7.9 herein.

Family Member. The term “Family Member” means, as to any Class C Person that is an individual, (i) such Class C Person’s spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister and (ii) any inter vivos or testamentary trusts (whether revocable or irrevocable) of which only such Class C Person, his or her spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister are the sole initial income beneficiaries.

-4-

---

Initial Holders. The term “Initial Holders” shall mean each of Bluerock Real Estate LLC, James Greer Babb III, Jordan B. Ruddy, The Kachadurian Group LLC, and Ryan S. MacDonald.

LTIP Unit. The term “LTIP Unit” shall have the meaning set forth in the Partnership Agreement.

Market Price. The term “Market Price” on any date shall mean, with respect to any class or series of outstanding Shares, the Closing Price for such Shares on such date. The “Closing Price” on any date shall mean the last sale price for such Shares, 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, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the NYSE American or, if such Shares are not listed or admitted to trading on the NYSE American, any other national securities exchange or, if such Shares are not listed or admitted to trading on any other national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the principal automated quotation system that may then be in use or, if such Shares are not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Shares selected by the Board of Directors or, in the event that no trading price is available for such Shares, the fair market value of Shares, as determined by the Board of Directors.

MGCL. The term “MGCL” shall mean the Maryland General Corporation Law, as amended from time to time.

Non-Transfer Event. The term “Non-Transfer Event” shall mean any event or other changes in circumstances other than a purported Transfer, including, without limitation, any change in the value of any Shares and any redemption of any Shares.

NYSE American. The term “NYSE American” shall mean the New York Stock Exchange American.

Operating Partnership. The term “Operating Partnership” shall mean Bluerock Residential Holdings, L.P., a Delaware limited partnership.

Optional Conversion Date. The term “Optional Conversion Date” shall have the meaning as provided in Section 5.2.6(c) herein.

Ownership Limits. The term “Ownership Limits” shall mean the Aggregate Share Ownership Limit and Common Share Ownership Limit, subject to adjustment pursuant to Section 6.1.8.

-5-

---

Partnership Agreement. The term “Partnership Agreement” shall mean the Second Amended and Restated Agreement of Limited Partnership of the Operating Partnership, as amended from time to time.

Person. The term “Person” shall mean an individual, corporation, limited liability company, partnership, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the Exchange Act and a group to which an Excepted Holder Limit applies.

Preferred Shares. The term “Preferred Shares” shall have the meaning as provided in Section 5.1 herein.

Prohibited Owner. The term “Prohibited Owner” shall mean, with respect to any purported Transfer or Non-Transfer Event, any Person who, but for the provisions of Article VI, would beneficially own (determined under the principles of Section 856(a)(5) of the Code), Beneficially Own or Constructively Own Shares in violation of Section 6.1.1(a), and if appropriate in the context, shall also mean any Person who would have been the record owner of Shares that the Prohibited Owner would have so owned.

Qualified Transferee. The term “Qualified Transferee” shall mean (i) any Executive, (ii) any Family Member or Affiliate of an Executive or of an Initial Holder, (iii) any Class C Person (to the extent not included in clause (ii)) Controlled by any combination of

one or more Executives, an Initial Holder and/or one or more Family Members of an Executive or an Initial Holder or (iv) any Class C Person (to the extent not included in clause (ii) or (iii)) who is a Family Member of a Class C Person who Controls an Initial Holder. None of the Corporation, the Operating Partnership, or the Trustee shall be a Qualified Transferee.

REIT. The term “REIT” shall have the meaning as provided in Article II.

REIT Provisions of the Code. The term “REIT Provisions of the Code” shall mean Sections 856 through 860 of the Code and any successor or other provisions of the Code relating to REITs (including provisions as to the attribution of ownership of beneficial interests therein) and the regulations promulgated thereunder.

Restriction Termination Date. The term “Restriction Termination Date” shall mean the first day on which the Board of Directors determines that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of Shares set forth herein is no longer required in order for the Corporation to qualify as a REIT.

Securities Act. The term “Securities Act” shall mean the Securities Act of 1933, as amended from time to time, or any successor statute thereto. Reference to any provision of the Securities Act shall mean such provision as in effect from time to time, as the same may be amended, and any successor provision thereto, as interpreted by any applicable regulations as in effect from time to time.

---

-6-

---

Shares. The term “Shares” shall mean shares of stock of the Corporation of any class or series, including Common Shares or Preferred Shares.

Stockholders. The term “Stockholders” shall mean the holders of record of the Shares as maintained in the books and records of the Corporation or its transfer agent.

Transfer. The term “Transfer” shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire Beneficial Ownership or Constructive Ownership of Shares or the right to vote or receive dividends on Shares, or any agreement to take any such actions or cause any such events, including (i) the granting or exercise of any option (or any disposition of any option), (ii) any disposition of any securities or rights convertible into or exchangeable for Shares or any interest in Shares or any exercise of any such conversion or exchange right and (iii) any issuance, sale, transfer, gift, assignment, devise or other disposition of interests in other entities that result in changes in Beneficial or Constructive Ownership of Shares; in each case, whether voluntary or involuntary, whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms “Transferring” and “Transferred” shall have the correlative meanings.

Trust. The term “Trust” shall mean any trust provided for in Section 6.2.1.

Trustee. The term “Trustee” shall mean the Person unaffiliated with the Corporation and any Prohibited Owner that is a “United States person” within the meaning of Section 7701(a)(30) of the Code and is appointed by the Corporation to serve as trustee of the Trust. Until otherwise appointed by the Company, the initial Trustee shall be KVCF, PLC.

## ARTICLE V

### STOCK

5.1 Authorized Shares. The Corporation has authority to issue 1,000,000,000 Shares, consisting of 750,000,000 shares of common stock, \$0.01 par value per share (“Common Shares”), and 250,000,000 shares of preferred stock, \$0.01 par value per share (“Preferred Shares”). The aggregate par value of all authorized Shares having par value is \$10,000,000. If Shares of one class are classified or reclassified into Shares of another class pursuant to this Article V, the number of authorized Shares of the former class shall be automatically decreased and the number of Shares of the latter class shall be automatically increased, in each case by the number of Shares so classified or reclassified, so that the aggregate number of Shares of all classes that the Corporation has authority to issue shall not be more than the total number of Shares set forth in the first sentence of this paragraph. Subject to any preferential rights in favor of any class of Preferred Shares, the Board of Directors, with the approval of a majority of the entire Board and without any action by the

Stockholders, may amend the Charter from time to time to increase or decrease the aggregate number of Shares or the number of Shares of any class or series of Shares that the Corporation has authority to issue.

-7-

---

## 5.2 Common Shares.

5.2.1 Common Shares Subject to Terms of Preferred Shares. The Common Shares shall be subject to the express terms of any class or series of Preferred Shares.

5.2.2 Description. Subject to the provisions of Article VI and except as may otherwise be specified in the Charter, including the following sentence, each Common Share shall entitle the holder thereof to one vote per Common Share on all matters upon which Stockholders are entitled to vote. Subject to the provisions of Article VI and except as may otherwise be specified in the Charter, each share of Class C Common Stock shall entitle the holder thereof to a number of votes (including any fraction thereof) ("Class C Votes") equal to the lesser of: (x) 50 and (y) the quotient of (A) the sum of (1) the number of shares of Class C Common Stock Class C Beneficially Owned by such holder *plus* (2) the number of C-LTIP Units Class C Beneficially Owned by such holder *plus* (3) the number of LTIP Units Class C Beneficially Owned by such holder *plus* (4) the number of C-Common Units Class C Beneficially Owned by such holder *plus* (5) the number of Common Units Class C Beneficially Owned by such holder (each of a share of Class C Common Stock, a C-LTIP Unit, a LTIP Unit, a C-Common Unit and a Common Unit, a "Class C Interest") *divided by* (B) the number of shares of Class C Common Stock Class C Beneficially Owned by such holder. If any Class C Interest is Class C Beneficially Owned by more than one holder of Class C Common Stock and would, in the absence of this sentence, increase the number of Class C Votes of more than one such holder of Class C Common Stock by virtue of clause (y) of the immediately preceding sentence, then such Class C Interest shall only increase the number of Class C Votes of the ultimate Class C Beneficial Owner of such Class C Interest that is also such a holder of Class C Common Stock, and not any other holder of Class C Common Stock. The Class C Common Stock and Class A Common Stock shall vote together as a single class. Common Shares do not have cumulative voting rights. The Board, without any action by the Stockholders, may classify or reclassify any unissued Common Shares from time to time into one or more classes or series of Shares.

5.2.3 Rights Upon Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up, or any Distribution of the assets, the aggregate assets available for Distribution to holders of the Common Shares shall be determined in accordance with applicable law. Each holder of Common Shares of a particular class shall be entitled to receive, ratably with each other holder of Common Shares of such class, that portion of such aggregate assets available for Distribution as the number of outstanding Common Shares of such class held by such holder bears to the total number of outstanding Common Shares of such class then outstanding.

5.2.4 Voting Rights. Except as may be provided otherwise in the Charter, and subject to the express terms of any class or series of Preferred Shares, the holders of the Common Shares shall have the exclusive right to vote on all matters (as to which a common stockholder shall be entitled to vote pursuant to applicable law) at all meetings of the Stockholders.

5.2.5 Classification. Immediately prior to the listing of a class of Common Shares on (i) the NYSE American, the New York Stock Exchange, or the Global Market or the Global Select Market of the Nasdaq Stock Market (or any successor to such entities), or (ii) a national securities exchange (or tier or segment thereof) that has listing standards that the United States Securities and Exchange Commission has determined by rule are substantially similar to the listing standards applicable to securities described in Section 18(b)(1)(A) of the Securities Act, 562,500,000 Common Shares shall be classified as Class A Common Stock, \$0.01 par value per share (the "Class A Common Stock"), and 187,500,000 Common Shares shall be classified as Class C Common Stock, \$0.01 par value per share (the "Class C Common Stock").

-8-

---

## 5.2.6 Conversion.

(a) General. The Class A Common Stock is not convertible into or exchangeable for any other property or securities of the Corporation. The Class C Common Stock is not convertible into or exchangeable for any other property or securities of the Corporation, except as provided in this Section 5.2.6.

(b) Automatic Conversion. In the event that an Initial Holder or any of such Initial Holder's Family Members (or, if such Initial Holder is not a natural person, a Class C Person who is a Family Member of a Class C Person who is a natural person and Controls such Initial Holder) Class C Transfers or causes to be Class C Transferred, directly or indirectly, Class C Beneficial Ownership of Class C Common Stock, other than to such Initial Holder or any of such Initial Holder's Family Members (or, if such Initial Holder is not a natural person, other than to a Class C Person who is a Family Member of a Class C Person who is a natural person and Controls such Initial Holder), each share of Class C Common Stock being Class C Transferred shall convert automatically into one share of Class A Common Stock immediately prior to such Class C Transfer. Any shares of Class C Common Stock automatically converted pursuant to this paragraph (b) shall be converted as and at the times specified in this paragraph (b) without any further action by the holders thereof and whether or not the certificates representing such shares (if any) are surrendered to the Corporation. Upon the automatic conversion of shares of Class C Common Stock pursuant to this paragraph (b), the Class C Beneficial Owner thereof shall identify for the Corporation the holder of record of the shares so converted.

(c) Optional Conversion. Pursuant to and in accordance with this paragraph (c), each holder of Class C Common Stock shall have the right, at such holder's option at any time and from time to time, to convert all or a portion of such holder's shares of Class C Common Stock into an equal number of fully paid and non-assessable shares of Class A Common Stock by delivering the certificates (if any) representing the shares of Class C Common Stock to be converted, duly endorsed for transfer, together with a written conversion notice to the transfer agent for the Class C Common Stock (or if there is no transfer agent, to the Corporation). Such conversion notice shall state: (i) the number of shares of Class C Common Stock to be converted and (ii) the date on which such conversion shall occur (which date shall be a Business Day no less than five (5) Business Days and not exceeding twenty (20) Business Days from the date of such conversion notice) (the "Optional Conversion Date"). Notwithstanding the foregoing, if the shares of Class C Common Stock are held in global form, such notice shall comply with applicable procedures of the Depository Trust Company ("DTC"). In connection with the exercise of the optional conversion right included in this Section 5.2.6(c), the Corporation shall comply with all U.S. federal and state securities laws and stock exchange rules in connection with any conversion of Class C Common Stock into Class A Common Stock. Holders of Class C Common Stock may withdraw any conversion notice by a written notice of withdrawal delivered to the Corporation's transfer agent prior to the close of business on the Business Day prior to the Optional Conversion Date. The notice of withdrawal must state: (x) the number of withdrawn shares of Class C Common Stock; (y) if certificated shares of Class C Common Stock have been issued, the certificate numbers of the withdrawn shares of Class C Common Stock; and (z) the number of shares of Class C Common Stock, if any, which remain subject to the conversion notice. Notwithstanding the foregoing, if the shares of Class C Common Stock are held in global form, the notice of withdrawal shall comply with applicable DTC procedures. Each conversion pursuant to this paragraph (c) for which the conversion notice has been given and not properly withdrawn shall be deemed to have been effected immediately prior to the close of business on the Optional Conversion Date.

-9-

5.2.7 Equal Status. Except as expressly provided herein, Class A Common Stock and Class C Common Stock shall have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters.

5.3 Preferred Shares. The Board may classify any unissued Preferred Shares and reclassify any previously classified but unissued Preferred Shares of any class or series from time to time, into one or more classes or series of Shares.

5.4 Classified or Reclassified Shares. Prior to issuance of classified or reclassified Shares of any class or series, the Board by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of Shares; (b) specify the number of Shares to be included in the class or series of Shares; (c) set or change, subject to the provisions of Article VI and subject to the express terms of any class or series of Shares outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other Distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland. Any of the terms of any class or series of Shares set or changed pursuant to clause (c) of this Section 5.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the Board or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of Shares is clearly and expressly set forth in the articles supplementary or other charter document.



5.5 Distributions; Subdivisions or Combinations. The Board of Directors may from time to time authorize the Corporation to declare and pay to Stockholders such dividends or other Distributions, in cash or other assets of the Corporation or in securities of the Corporation or from any other source, including in Shares of one class payable to holders of Shares of another class, as the Board of Directors in its sole and absolute discretion shall determine. The Board of Directors shall endeavor to authorize the Corporation to declare and pay such dividends and other Distributions as shall be necessary for the Corporation to qualify as a REIT under the Code, unless the Board of Directors has determined, in its sole and absolute discretion, that maintaining the Corporation's qualification as a REIT is not in the best interests of the Corporation; however, Stockholders shall have no right to any dividend or other Distribution unless and until authorized by the Board and declared by the Corporation. Subject to the preferences applicable to any class or series of Preferred Shares, if any, outstanding at any time, if and when the Board of Directors authorizes or the Corporation declares a dividend or other Distribution in cash or other assets of the Corporation or in securities of the Corporation or from any other source with respect to each share of Class A Common Stock or Class C Common Stock, such authorization or declaration also shall constitute a simultaneous authorization or declaration of an equivalent dividend or Distribution with respect to each share of Class C Common Stock or Class A Common Stock, respectively. If the Corporation in any manner subdivides or combines the outstanding shares of Class A Common Stock, the outstanding shares of Class C Common Stock shall be subdivided or combined in the same manner. The exercise of the powers and rights of the Board of Directors pursuant to this Section 5.5 shall be subject to the provisions of any class or series of Shares at the time outstanding.

-10-

---

5.6 Charter and Bylaws. The rights of all Stockholders and the terms of all Shares are subject to the provisions of the Charter and the Bylaws. The Board of Directors shall have the power to adopt, alter, amend or repeal any provision of the Bylaws and to make new Bylaws.

## ARTICLE VI

### RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

#### 6.1 Shares.

##### 6.1.1 Ownership Limitations. Prior to the Restriction Termination Date:

###### (a) Basic Restrictions.

(i) (1) No Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own Shares in excess of the Aggregate Share Ownership Limit, (2) no Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own Common Shares in excess of the Common Share Ownership Limit and (3) no Excepted Holder shall Beneficially Own or Constructively Own Shares in excess of the Excepted Holder Limit for such Excepted Holder.

(ii) No Person shall Beneficially Own Shares to the extent that such Beneficial Ownership of Shares would result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of a taxable year).

(iii) No Person shall Beneficially Own or Constructively Own Shares to the extent that such Beneficial Ownership or Constructive Ownership of Shares would result in the Company failing to qualify as a REIT.

(iv) No Person shall Constructively Own Shares to the extent that such Constructive Ownership would cause any income of the Corporation that would otherwise qualify as "rents from real property" for purposes of Section 856(d) of the Code to fail to qualify as such.

(v) Notwithstanding any other provisions contained herein but subject to Section 6.3 of this Article VI, any Transfer of Shares that, if effective, would result in Shares being beneficially owned by fewer than 100 Persons (determined under the principles of Section 856(a)(5) of the Code) shall be void ab initio, and the intended transferee shall acquire no rights in such Shares.

(b) Transfer in Trust. If any Transfer or Non-Transfer Event occurs which, if effective or otherwise, would result in any Person Beneficially Owning or Constructively Owning Shares (as applicable) in violation of Section 6.1.1(a)(i), (ii), (iii) or (iv),

(i) then that number of Shares the Beneficial Ownership or Constructive Ownership of which otherwise would cause such Person to violate Section 6.1.1(a)(i), (ii), (iii) or (iv) (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 6.2, effective as of the close of business on the Business Day prior to the date of such Transfer or Non-Transfer Event, and such Person (or, if different, the direct or Beneficial Owner of such shares) shall acquire no rights in such Shares (or shall be divested of its rights in such shares); or

(ii) if the Transfer to the Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 6.1.1(a)(i), (ii), (iii) or (iv), then the Transfer of that number of Shares that otherwise would cause any Person to violate Section 6.1.1(a)(i), (ii), (iii) or (iv) shall be void ab initio, and the intended transferee shall acquire no rights in such Shares.

(c) Transfer to Multiple Trusts. To the extent that, upon a transfer of Shares pursuant to Section 6.1.1(b), a violation of any provision of this Section 6.1 would nonetheless be continuing (for example where the ownership of Shares by a single Trust would violate the 100 stockholder requirement applicable to REITs), then Shares shall be transferred to that number of Trusts, each having a distinct Charitable Trustee and a Charitable Beneficiary or Beneficiaries that are distinct from those of each other Trust, such that there is not violation of any provision of this Section 6.1.

6.1.2 Remedies for Breach. If the Board of Directors or its designee (including any duly authorized committee of the Board) shall at any time determine in good faith that a Transfer or Non-Transfer Event has taken place that results in a violation of Section 6.1.1(a) or that a Person intends to acquire or has attempted to acquire Beneficial Ownership, Constructive Ownership or beneficial ownership (determined under the principles of Section 856(a)(5) of the Code) of any Shares in violation of Section 6.1.1(a) (whether or not such violation is intended), the Board of Directors or its designee shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or Non-Transfer Event or otherwise prevent such violation, including, without limitation, causing the Corporation to redeem Shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer or Non-Transfer Event; provided, however, that any Transfers or attempted Transfers in violation of Section 6.1.1(a) (or Non-Transfer Event that results in a violation of Section 6.1.1(a)) shall automatically result in the Transfer to the Trust described above, or, if applicable, shall be void ab initio as provided above irrespective of any action (or non-action) by the Board of Directors or its designee.

6.1.3 Notice of Restricted Transfer. Any Person who acquires or attempts or intends to acquire Beneficial Ownership, Constructive Ownership or beneficial ownership (determined under the principles of Section 856(a)(5) of the Code) of Shares that will or may violate Section 6.1.1(a), or any Person who held or would have owned Shares that resulted in a Transfer to the Charitable Trust pursuant to the provisions of Section 6.1.1(b), shall immediately give written notice to the Corporation of such event, or in the case of such a proposed or attempted transaction, give at least 15 days prior written notice, and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's qualification as a REIT.

6.1.4 Owners Required To Provide Information. Prior to the Restriction Termination Date:

(a) every owner of five percent or more (or such lower percentage as required by the Code or the regulations promulgated thereunder) of the outstanding Shares, upon request following the end of each taxable year of the Corporation, shall provide in writing to the Corporation the name and address of such owner, the number of Shares and other Shares Beneficially Owned and a description of the manner in which such Shares are held. Each such owner shall provide to the Corporation such additional

information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's qualification as a REIT and to ensure compliance with the Ownership Limits; and

(b) each Person who is a Beneficial Owner or Constructive Owner of Shares and each Person (including the Stockholder of record) who is holding Shares for a Beneficial Owner or Constructive Owner shall provide in writing to the Corporation such information as the Corporation may request, in good faith, in order to determine the Corporation's qualification as a REIT and to comply with requirements of any taxing authority or governmental authority or to determine such compliance.

6.1.5 Remedies Not Limited. Subject to Section 7.6 hereof, nothing contained in this Section 6.1 shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its Stockholders in preserving the Corporation's qualification as a REIT.

6.1.6 Ambiguity. The Board of Directors shall have the power to determine the application of the provisions of this Section 6.1 or Section 6.2 and any definition contained in Article IV, including in the case of an ambiguity in the application of any provisions of this Section 6.1, Section 6.2 or any such definition, with respect to any situation based on the facts known to it. In the event Section 6.1 or 6.2 requires an action by the Board of Directors and the Charter fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of Article V or Sections 6.1 or 6.2.

-13-

---

#### 6.1.7 Exceptions.

(a) Subject to Section 6.1.1(a)(iii), the Board of Directors, in its sole and absolute discretion, may exempt (prospectively or retroactively) a Person from one or more of the Ownership Limits set forth in Section 6.1.1(a)(i)(1), (2) and (3) and establish or increase an Excepted Holder Limit for such Person, may prospectively waive the provisions of Section 6.1.1(a)(ii) with respect to a Person, and/or may prospectively or retroactively waive the provisions of Section 6.1.1(a)(iv) with respect to a Person if:

(i) the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary to ascertain that such Person's Beneficial Ownership or Constructive Ownership of such Shares in excess of the Ownership Limits or in violation of the limitations imposed by Section 6.1.1(a)(ii) or Section 6.1.1(a)(iv), as applicable, will not now or in the future jeopardize the Corporation's ability to qualify as a REIT under the Code; and

(ii) such Person agrees that any violation or attempted violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Sections 6.1.1 through 6.1.6) will result in such Shares being automatically Transferred to a Trust in accordance with Sections 6.1.1(b) and 6.2.

(b) Prior to granting any exception or waiver or creating or increasing any Excepted Holder Limit pursuant to Section 6.1.7(a), the Board of Directors may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the Board of Directors in its sole and absolute discretion, as it may deem necessary or advisable in order to determine or ensure the Corporation's qualification as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Directors may impose such conditions or restrictions as it deems appropriate in connection with granting such exemption or waiver or creating any Excepted Holder Limit.

(c) Subject to Section 6.1.1(a)(iii), an underwriter, placement agent or initial purchaser in a Rule 144A transaction that participates in a public offering, private placement or other private offering of Shares (or securities convertible into or exchangeable for Shares) may Beneficially Own and Constructively Own Shares (or securities convertible into or exchangeable for Shares) in excess of the Aggregate Share Ownership Limit, the Common Share Ownership Limit or both such limits, but only to the extent (i) necessary to facilitate such public offering, private placement or other private offering and (ii) such Beneficial Ownership or Constructive Ownership does not cause the Company to fail to satisfy the requirements of Section 856(a)(6) of the Code or cause a violation of Section 6.1.1(a)(iii) or (iv).

(d) The Board of Directors may only revoke or reduce the Excepted Holder Limit for an Excepted Holder: (i) with the written consent of such Excepted Holder at any time, (ii) unless the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder

provide otherwise, at any time after the Excepted Holder no longer Beneficially Owns or Constructively Owns Shares in excess of the Aggregate Share Ownership Limit or the Common Share Ownership Limit or (iii) pursuant to the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder. No Excepted Holder Limit shall be reduced to a percentage that is less than the Common Share Ownership Limit.

-14-

---

6.1.8 Increase or Decrease in Aggregate Share Ownership and Common Share Ownership Limits. Subject to Section 6.1.1(a)(iii), the Board of Directors may from time to time increase one or both of the Ownership Limits for one or more Persons and decrease one or both of the Ownership Limits for all other Persons; provided, however, that any such decreased Ownership Limit will not be effective for any Person whose percentage ownership in Shares is in excess of the decreased Ownership Limit until such time as such Person's percentage of Shares equals or falls below the decreased Ownership Limit, but any further acquisition of Shares in excess of such percentage ownership of Shares will be in violation of the Ownership Limits; and provided, further, that the new Ownership Limits would not result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of a taxable year) if five unrelated individuals were to Beneficially Own the five largest amounts of Shares permitted to be Beneficially Owned under such new Ownership Limits, taking into account the immediately preceding proviso permitting ownership in excess of decreased Ownership Limits in certain cases.

6.1.9 Legend. Each certificate representing Shares, if certificated, shall bear a legend that substantially describes the foregoing restrictions on transfer and ownership, or, instead of such legend, the certificate, if any, may state that the Corporation will furnish a full statement about certain restrictions on transferability to a stockholder on request and without charge.

## 6.2 Transfer of Shares in Trust.

6.2.1 Ownership in Trust. Upon any purported Transfer or Non-Transfer Event described in Section 6.1.1(b) that would result in a Transfer of Shares to a Trust, such Shares shall be deemed to have been Transferred to the Trustee as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such Transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day prior to the purported Transfer or Non-Transfer Event that results in the Transfer to the Trust pursuant to Section 6.1.1(b). The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with the Corporation and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 6.2.6.

6.2.2 Status of Shares Held by the Trustee. Shares held by the Trustee shall continue to be issued and outstanding Shares. The Prohibited Owner shall have no rights in the Shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any Shares held in trust by the Trustee, shall have no rights to dividends or other Distributions and shall not possess any rights to vote or other rights attributable to the Shares held in the Trust.

-15-

---

6.2.3 Dividend and Voting Rights. The Trustee shall have all voting rights and rights to dividends or other Distributions with respect to Shares held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or other Distribution paid prior to the discovery by the Corporation that Shares have been Transferred to the Trustee shall be paid with respect to such Shares to the Trustee upon demand and any dividend or other Distribution authorized but unpaid shall be paid when due to the Trustee. Any dividends or other Distributions so paid over to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to Shares held in the Trust and, subject to Maryland law, effective as of the date that Shares have been Transferred to the Trust, the Trustee shall have the authority (at the Trustee's sole and absolute discretion) (a) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Corporation that Shares have been Transferred to the Trustee and (b) to recast such vote in accordance with the desires of the Trustee acting for the benefit of the Charitable Beneficiary; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VI, until the Corporation has received notification that Shares have been Transferred into a Trust, the Corporation shall be entitled to rely on

its share transfer and other stockholder records for purposes of preparing lists of Stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of Stockholders.

6.2.4 Sale of Shares by Trustee. As soon as reasonably practicable after receiving notice from the Corporation that Shares have been Transferred to the Trust (and no later than 20 days after receiving notice in the case of Shares that are listed or admitted to trading on any national securities exchange), the Trustee shall sell the Shares held in the Trust to a person, designated by the Trustee, whose ownership of the Shares will not violate the ownership limitations set forth in Section 6.1.1(a). Upon such sale, the interest of the Charitable Beneficiary in the Shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this Section 6.2.4. The Prohibited Owner shall receive the lesser of (a) the price paid by the Prohibited Owner for the Shares or, if the Prohibited Owner did not give value for the Shares in connection with the event causing the Shares to be held in the Trust (e.g., in the case of a gift, devise or other such transaction), the Market Price of the Shares on the day of the event causing the Shares to be held in the Trust and (b) the sales proceeds received by the Trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the Shares held in the Trust. The Trustee may reduce the amount payable to the Prohibited Owner by the amount of dividends and other Distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 6.2.3 of this Article VI. Any net sales proceeds in excess of the amount payable to the Prohibited Owner shall be immediately paid to the Charitable Beneficiary. If, prior to the discovery by the Corporation that Shares have been Transferred to the Trustee, such Shares are sold by a Prohibited Owner, then (i) such Shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Prohibited Owner received an amount for such Shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 6.2.4, such excess shall be paid to the Trustee upon demand.

6.2.5 Purchase Right in Shares Transferred to the Trustee. Shares Transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per Share equal to the lesser of (a) the price per Share in the transaction that resulted in such Transfer to the Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (b) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation may reduce the amount payable to the Prohibited Owner by the amount of dividends and other Distributions which have been paid to the Prohibited Owner and are owed by the Prohibited Owner to the Trustee pursuant to Section 6.2.3 of this Article VI. The Corporation may pay the amount of such reduction to the Trustee for the benefit of the Charitable Beneficiary. The Corporation shall have the right to accept such offer until the Trustee has sold the Shares held in the Trust pursuant to Section 6.2.4. Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the Shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

---

-16-

---

6.2.6 Designation of Charitable Beneficiaries. By written notice to the Trustee, the Corporation shall designate, and may subsequently change, the Charitable Beneficiary by designating one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Trust such that (a) Shares held in the Trust would not violate the restrictions set forth in Section 6.1.1(a) in the hands of such Charitable Beneficiary and (b) each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A) (other than clauses (vii) and (viii) thereof), 2055 and 2522 of the Code. Neither the failure of the Corporation to make such designation nor the failure of the Corporation to appoint the Trustee before the automatic transfer provided for in Section 6.1.1(b)(i) shall make such transfer ineffective, provided that the Corporation thereafter makes such designation and appointment. The designation of a nonprofit organization as a Charitable Beneficiary shall not entitle such nonprofit organization to serve in such capacity and the Corporation may, in its sole and absolute discretion, designate a different nonprofit organization as the Charitable Beneficiary at any time and for any or no reason. Any determination by the Corporation with respect to the application of this Article VI shall be binding on each Charitable Beneficiary.

6.3 NYSE American Transactions. Nothing in this Article VI shall preclude the settlement of any transaction entered into through the facilities of the NYSE American or any other national securities exchange or automated inter-dealer quotation system. The fact that the settlement of any transaction occurs shall not negate the effect of any other provision of this Article VI and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VI.

6.4 Enforcement. The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VI.

6.5 Non-Waiver. No delay or failure on the part of the Corporation or the Board of Directors in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board of Directors, as the case may be, except to the extent specifically waived in writing.

6.6 Severability. If any provision of this Article VI or any application of any such provision is determined to be invalid by any federal or state court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and other applications of such provisions shall be affected only to the extent necessary to comply with the determination of such court.

-17-

---

**ARTICLE VII**  
**PROVISIONS FOR DEFINING, LIMITING AND REGULATING**  
**CERTAIN POWERS OF THE CORPORATION AND OF**  
**THE STOCKHOLDERS AND DIRECTORS**

7.1 Number of Directors. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation (the "Directors") shall be five, which number may be increased or decreased from time to time pursuant to the Bylaws; provided, however, that, the total number of Directors shall never be less than the minimum number required by the MGCL. The names of the Directors who shall serve until the next annual meeting of Stockholders and until their successors are duly elected and qualify are:

R. Ramin Kamfar  
I. Bobby Majumder  
Elizabeth Harrison  
Kamal Jafarnia  
Romano Tio

The Directors may increase the number of Directors and fill any vacancy, whether resulting from an increase in the number of Directors or otherwise, on the Board of Directors, in the manner provided in the Bylaws.

The Corporation elects, at such time as it becomes eligible to make the election provided for under Section 3-804(c) of the MGCL, that, except as may be provided by the Board of Directors in setting the terms of any class or series of Preferred Shares, any and all vacancies on the Board of Directors may be filled only by the affirmative vote of a majority of the remaining Directors in office, even if the remaining Directors do not constitute a quorum, and any Director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which such vacancy occurred.

7.2 General. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The Board of Directors may take any action that, in its sole and absolute discretion, is necessary or desirable to conduct the business of the Corporation. The Charter shall be construed with a presumption in favor of the grant of power and authority to the Board of Directors. Any construction of the Charter or determination made in good faith by the Board of Directors concerning its power and authority hereunder shall be conclusive.

7.3 Extraordinary Actions. Notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of the holders of Shares entitled to cast a greater number of votes, any such action shall be effective and valid if declared advisable by the Board of Directors and taken or approved by the affirmative vote of holders of Shares entitled to cast a majority of all the votes entitled to be cast on the matter.

7.4 Authorization by Board of Stock Issuance. The Board of Directors may authorize the issuance from time to time of Shares of any class or series, whether now or hereafter authorized, or securities or rights convertible into Shares of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the Charter or the Bylaws.

7.5 Preemptive Rights and Appraisal Rights. Except as may be provided by the Board of Directors in setting the terms of classified or reclassified Shares pursuant to Section 5.4 or as may otherwise be provided by contract, no holder of Shares shall, as such holder, have any preemptive right to purchase or subscribe for any additional Shares or any other security that the Corporation may issue or sell. Holders of Shares shall not be entitled to exercise any rights of an objecting stockholder provided for under Title 3, Subtitle 2 of the MGCL or any successor statute unless the Board of Directors, upon such terms and conditions as may be specified by the Board of Directors, shall determine that such rights apply, with respect to all or any classes or series of Shares, to one or more transactions occurring after the date of such determination in connection with which holders of such Shares would otherwise be entitled to exercise such rights.

7.6 Determinations by Board. The determination as to any of the following matters, made by or pursuant to the direction of the Board of Directors, shall be final and conclusive and shall be binding upon the Corporation and every holder of Shares: (i) the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of Shares or the payment of other Distributions on Shares; (ii) the amount of paid-in surplus, net assets, other surplus, annual or other cash flow, funds from operations, net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; (iii) the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); (iv) any interpretation or resolution of any ambiguity with respect to any provision of the Charter (including any of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or other Distributions, qualifications or terms or conditions of redemption of any class or series of Shares) or the Bylaws; (v) the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation or any Shares; (vi) the number of Shares of any class of the Corporation; (vii) any matter relating to the acquisition, holding and disposition of any assets by the Corporation; (viii) any interpretation of the terms and conditions of one or more agreements with any Person; (ix) the compensation of Directors, officers, employees or agents of the Corporation; or (x) any other matter relating to the business and affairs of the Corporation or required or permitted by applicable law, the Charter or Bylaws or otherwise to be determined by the Board of Directors; provided, however, that any determination by the Board of Directors as to any of the preceding matters shall not render invalid or improper any action taken or omitted prior to such determination and no Director shall be liable for making or failing to make such a determination.

7.7 REIT Qualification. The Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Corporation as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to continue to be qualified as a REIT, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election pursuant to Section 856(g) of the Code. The Board of Directors also may determine that compliance with any restriction or limitation on stock ownership and Transfers set forth in Article VI is no longer required for REIT qualification.

7.8 Removal of Directors. Subject to the rights of holders of one or more classes or series of Preferred Shares to elect or remove one or more Directors, any Director, or the entire Board of Directors, may be removed from office at any time, but only for cause and then only by the affirmative vote of at least a majority of the votes entitled to be cast generally in the election of Directors. For purposes of this paragraph, "cause" shall mean, with respect to any particular Director, conviction of a felony or final judgment of a court of competent jurisdiction holding that such Director caused demonstrable material harm to the Corporation through bad faith or active and deliberate dishonesty.

7.9 Advisor Agreements. Subject to such conditions, if any, as may be required by any applicable statute, rule or regulation, the Board of Directors may authorize the execution and performance by the Corporation of one or more agreements with any Person whereby, subject to the supervision and control of the Board of Directors, any such other Person shall render or make available to the Corporation managerial, investment, advisory and/or related services, office space and other services and facilities (including, if deemed advisable by the Board of Directors, the management or supervision of the investments of the Corporation) (each, an "External Manager") upon such terms and conditions as may be provided in such agreement or agreements (including, if deemed fair and equitable by the Board of Directors, the compensation payable thereunder by the Corporation).

## ARTICLE VIII

### LIABILITY LIMITATION AND INDEMNIFICATION

8.1 Limitation of Stockholder Liability. No Stockholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to the Corporation by reason of being a Stockholder, nor shall any Stockholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any Person in connection with the Corporation's assets or the affairs of the Corporation by reason of being a Stockholder.

8.2 Limitation of Director and Officer Liability. To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no present or former Director or officer of the Corporation shall be liable to the Corporation or its Stockholders for money damages. Neither the amendment nor repeal of this Section 8.2, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Section 8.2, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act that occurred prior to such amendment, repeal or adoption.

-20-

---

8.3 Indemnification. To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former Director or officer of the Corporation 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 such capacity, (b) any individual who, while a Director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager 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 such capacity, or (c) any External Manager acting as an agent of the Corporation who is made or threatened to be made a party to, or witness in, the proceeding by reason of its service in such capacity. The rights to indemnification and advance of expenses provided by the Charter to a Director or officer shall vest immediately upon the election of such Director or officer. The Corporation may, with the approval of the Board of Directors, provide such indemnification and advancement of expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a), (b) or (c) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The Board of Directors may take such action as is necessary to carry out this Section 8.3. The indemnification and payment or reimbursement of expenses provided in the Charter shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance or agreement or otherwise.

Neither the amendment nor repeal of this Section 8.3, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Section 8.3, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

## ARTICLE IX

### AMENDMENTS

The Corporation reserves the right from time to time to make any amendment to the Charter, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Charter, of any Shares. All rights and powers conferred by the Charter on Stockholders, Directors and officers are granted subject to this reservation. Except for those amendments permitted to be made without Stockholder approval under Maryland law or by specific provision in the Charter, any amendment to the Charter shall be valid only if approved by the affirmative vote of the holders of Shares entitled to cast a majority of all votes entitled to be cast on the matter.

THIRD: The amendment and restatement of the charter of the Corporation as hereinabove set forth have been duly advised by the Board of Directors and approved by the stockholder(s) of the Corporation as required by law.

FOURTH: The current address of the principal office of the Corporation in the State of Maryland is as set forth in Article III of the foregoing amendment and restatement of the charter.



FIFTH: The name and address of the Corporation's current resident agent are as set forth in Article III of the foregoing amendment and restatement of the charter.

-21-

---

SIXTH: The number of directors of the Corporation and the names of those currently in office are as set forth in Section 7.1 of the foregoing amendment and restatement of the charter.

SEVENTH: The total number of shares of stock which the Corporation had authority to issue immediately prior to the foregoing amendment and restatement of the charter was 1,000,000,000 shares of stock, consisting of 750,000,000 shares of common stock, \$0.01 par value per share, and 250,000,000 shares of preferred stock, \$0.01 par value per share. The aggregate par value of all shares of stock having par value was \$10,000,000.

EIGHTH: The total number of shares of stock which the Corporation has authority to issue pursuant to the foregoing amendment and restatement of the charter is 1,000,000,000, consisting of 750,000,000 shares of common stock, \$0.01 par value per share and 250,000,000 shares of preferred stock, \$0.01 par value per share. The aggregate par value of all authorized shares of stock having par value is \$10,000,000.

NINTH: The undersigned acknowledges these Second Articles of Amendment and Restatement to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned acknowledges that to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

TENTH: These Second Articles of Amendment and Restatement shall become effective at 12:00 a.m. Eastern Time, on October 6, 2022.

-22-

---

IN WITNESS WHEREOF, the Corporation has caused these Second Articles of Amendment and Restatement to be signed in its name and on its behalf by its Chief Executive Officer and attested to by its Chief Legal Officer and Secretary on this 5th day of October, 2022.

ATTEST:

BLUEROCK HOMES TRUST, INC.

/s/ Jason Emala

/s/ R. Ramin Kamfir

(SEAL)

Name: Jason Emala

Name: R. Ramin Kamfir

Title: Chief Legal Officer and Secretary

Title: Chief Executive Officer

[Signature Page to Charter]

-23-

---

**BLUEROCK HOMES TRUST, INC.**  
**AMENDED AND RESTATED BYLAWS**

**ARTICLE I**  
**OFFICES**

Section 1. **PRINCIPAL OFFICE.** The principal office of Bluerock Homes Trust, Inc. (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, if any, 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, if any, set by the Board of Directors. Failure to hold an annual meeting shall not invalidate the Corporation’s existence or affect any otherwise valid acts of the Corporation. The Corporation may, at any time prior to the holding of an annual meeting of stockholders, and for any reason, postpone, reschedule or cancel any annual meeting of stockholders.

Section 3. **SPECIAL MEETINGS.**

(a) **General.** Each of the chairman of the Board of Directors, 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 chairman of the Board of Directors, 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 receipt of a Special Meeting Request (as defined below) delivered by 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 Special Meeting Proponent (as defined below), each individual, if any, whom the stockholder proposes to nominate for election or reelection as a director and each matter, if any, 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 or the election of each such individual, as applicable, 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”) and such Record Date Request Notice shall include any other information required to be disclosed pursuant to Section 3(b)(2) of this Article II. 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-

---

(2) 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 Special Meeting Proponent, (ii) (A) the class, series, if any, and number of all shares of stock of the Corporation which are, directly or indirectly, owned (beneficially or of record) by each such Special Meeting Proponent, (B) any option, warrant, convertible security, stock appreciation right, instrument, or derivative or synthetic arrangement having the characteristics of a long position in any class or series of stock of the Corporation, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of stock of the Corporation, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of stock of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of stock of the Corporation, through the delivery of cash or other property, or otherwise, and without regard to whether the stockholder of record, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of stock of the Corporation (a “Derivative Instrument”), directly or indirectly, owned beneficially by such Special Meeting Proponent and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of stock of the Corporation, (C) a description of any proxy, contract, arrangement, understanding or relationship pursuant to which such Special Meeting Proponent has a right to vote any shares of stock or other security of the Corporation, (D) any Short Interest in any security of the Corporation (for purposes of these Bylaws a person shall be deemed to have a “Short Interest” in a security if such person, directly or indirectly, through any proxy, contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any decreased in the value of the subject security or such proxy, contract, arrangement, understanding or relationship held by such person has the purpose or effect of mitigating loss to, reducing the economic risk (of ownership or otherwise) of any class or series of stock of the Corporation by, managing the risk of share price changes for, or increasing or decreasing the voting power of, such Special Meeting Proponent with respect to any class or series of stock of the Corporation), (E) any rights to dividends on the stock of the Corporation owned beneficially by such Special Meeting Proponent that are separated or separable from the underlying stock of the Corporation, (F) any proportionate interest in stock of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such Special Meeting Proponent is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, (G) any significant equity interests or any Derivative Instruments or Short Interests in any principal competitor of the Corporation held by such Special Meeting Proponent, (H) any direct or indirect interest of such Special Meeting Proponent in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (I) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such Special Meeting Proponent, if any, (J) any performance-related fees (other than an asset-based fee) that such Special Meeting Proponent is entitled to based on any increase or decrease in the value of stock of the Corporation or Derivative Instruments, if any, including, without limitation, any such interests held by members of such Special Meeting Proponent’s immediate family sharing the same household (which information shall be supplemented by such Special Meeting Proponent not later than ten days after the Meeting Record Date, if any, to disclose such ownership as of the Meeting Record Date), and (K) any other information relating to such Special Meeting Proponent, if any, that would be required to be disclosed in a proxy statement and form of proxy or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, 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 Special Meeting Proponent must notify the Corporation by sending written notice to the secretary by registered mail each time the Special Meeting Proponent’s stock ownership decreases after delivering the Special Meeting

Notice. Any 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-

---

(3) If information submitted pursuant to this Section 3(b) by any stockholder proposing seeking to have stockholders request a special meeting shall be inaccurate in any material respect, such information shall be deemed not to have been provided in accordance with this Section 3(b). 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 3(b), and (B) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to seek to have stockholders request a special meeting) submitted by the stockholder pursuant to this Section 3(b) 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 shall be deemed not to have been provided in accordance with this Section 3(b).

(4) 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 paragraphs (1) and (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.

(5) 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, if any, 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 90th day after the Meeting Record Date or, if such 90th 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, if any, 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 30th 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).

-4-

---

(6) 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 chairman 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 chairman 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.

(7) The chairman of the Board of Directors, chief executive officer, president or Board of Directors may appoint regionally or nationally recognized 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).

(8) 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 New York City are authorized or obligated by law or executive order to close.

(9) For purposes of these Bylaws, "Special Meeting Proponent" shall mean (a) the stockholder providing the Record Date Request Notice or Special Meeting Request, as applicable, (b) the beneficial owner or beneficial owners, if different, on whose behalf the Record Date Request Notice or Special Meeting Request, as applicable, is made, (c) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for purposes of these Bylaws) of each such stockholder or beneficial owner and (d) any other person with whom such stockholder or beneficial owner (or any of their respective affiliates or associates) is acting in concert.

-5-

---

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, if any, 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 or these Bylaws to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice for such special meeting. The Corporation may, at any time prior to the holding of any special meeting of stockholders, and for any reason, postpone, reschedule or cancel any special meeting of stockholders.

Section 5. ORGANIZATION AND CONDUCT. Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chairman of the meeting or, in the absence of such appointment or appointed individual, by the chairman of the Board of Directors or, in the case of a vacancy in the office or absence of the chairman of the Board of Directors, 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, or the secretary. The secretary or, in the secretary's absence, an assistant secretary or, in the absence of both the secretary and all assistant secretaries, an individual appointed by the Board of Directors or the chairman 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 chairman of the meeting, shall record the minutes of the meeting. Even if present at the meeting, the individual holding the position named herein may delegate to another individual the power to act as chairman 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 chairman of the meeting. The chairman of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chairman 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 chairman 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 chairman 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, if any, announced at the meeting; (h) complying with any state and local laws and regulations concerning safety and security; and (i) restricting the use of audio or video recording devices at the meeting. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with any rules of parliamentary procedure.

---

-6-

---

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 (and for the avoidance of doubt, abstentions and broker non- votes shall be treated as present for purposes of determining the presence or absence of 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. The chairman of the meeting may adjourn or recess the meeting from time to time and for any reason, to a date not more than 120 days after the original record date without notice other than announcement at the meeting, whether or not there is a quorum. At any such adjourned or recessed meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

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 or recess, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. The affirmative vote of 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, without any right to cumulative votes. 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 or by the Charter. 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 chairman 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.

---

-7-

---

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, trust, joint venture or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, member, 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. Upon 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 chairman of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Each inspector, before discharging his, her or its duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his, her or its ability. Except as otherwise provided by the chairman 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 chairman 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.

-8-

---

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 150th day nor later than 5:00 p.m., Eastern Time, on the 120th 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 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th 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, rescheduling, cancellation, recess 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, if any, 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 (including the Proposed Nominee’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected);

(ii) as to any other business, if any, 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 the Meeting Proponent (as defined below), individually or in the aggregate, including any anticipated benefit to the Meeting Proponent therefrom;

-9-

---

(iii) as to the Meeting Proponent and any Proposed Nominee,

(A) (I) the class, series, if any, and number of all shares of stock or other securities of the Corporation or any affiliate thereof (each, a “Company Security” and, collectively, the “Company Securities”), if any, which are, directly or indirectly, owned (beneficially or of record) by each such Meeting Proponent or Proposed Nominee, (II) the date on which each such Company Security was acquired and the investment intent of such acquisition, (III) any Derivative Instrument, directly or indirectly, owned beneficially by such Meeting Proponent or Proposed Nominee and any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of any Company Security, (IV) a description of any proxy, contract, arrangement, understanding or relationship pursuant to which such Meeting Proponent or Proposed Nominee has a right to vote any Company Security, (V) any Short Interest in any Company Securities of any such person, (VI) any rights to dividends on the Company Securities owned beneficially by such Meeting Proponent or Proposed Nominee that are separated or separable from the underlying Company Securities, (VII) any proportionate interest in Company Securities or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such Meeting Proponent or Proposed Nominee is a general partner or, directly or indirectly, beneficially owns an interest in a general partner, (VIII) any performance-related fees (other than an asset-based fee) to which such Meeting Proponent or Proposed Nominee is entitled based on any increase or decrease in the value of Company Securities or Derivative Instruments, if any, including, without limitation, any such interests held by members of such Meeting Proponent or Proposed Nominee’s immediate family sharing the same household (which information shall be supplemented by such Meeting Proponent or Proposed Nominee not later than ten days after the record date, if any, to disclose such ownership as of the record date) and (IX) any other information required to be disclosed pursuant to Section 3(b)(2) of this Article II,

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

(C) whether and the extent to which such Meeting Proponent or Proposed Nominee, 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 (x) Company Securities or (y) any security of any entity that was listed in the Peer Group in the Stock Performance Graph in the most recent annual report to security holders of the Corporation (a “Peer Group Company”) for such Meeting Proponent or Proposed Nominee or (II) increase or decrease the voting power of such Meeting Proponent or Proposed Nominee in the Corporation or any affiliate thereof (or, as applicable, in any Peer Group Company) disproportionately to such person’s economic interest in the Company Securities (or, as applicable, in any Peer Group Company),

-10-

---



(D) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such Meeting Proponent or Proposed Nominee, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Company Securities where such Meeting Proponent or Proposed Nominee receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series,

(E) the name and address of such Meeting Proponent, as they appear on the Corporation's stock ledger, and the current name and address, if different, of each such Meeting Proponent and any Proposed Nominee and

(F) the investment strategy or objective, if any, of such Meeting Proponent 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 Meeting Proponent;

(iv) the name and address of any person who contacted or was contacted by the Meeting Proponent about the Proposed Nominee or other business proposal;

(v) to the extent known by the Meeting Proponent, the name and address of any other stockholder supporting the Proposed Nominee or the proposal of other business; and

(vi) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such Meeting Proponent, on the one hand, and each Proposed Nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 or any successor provision promulgated under Regulation S-K if the Meeting Proponent, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant.

---

-11-

---

(4) Such Meeting Proponent's notice shall, with respect to any Proposed Nominee, be accompanied by a certificate executed by the Proposed Nominee (i) certifying that such Proposed Nominee (a) is not, and will not become, a party to (x) any agreement, arrangement or understanding (whether written or oral) with any person or entity other than the Corporation as to how the Proposed Nominee would vote or act on any issue or question as a director (a "Voting Commitment"), in each case that has not been disclosed to the Corporation or (y) any Voting Commitment that could limit or interfere with such Proposed Nominee's ability to comply, if elected to serve as a member of the Board of Directors, with such Proposed Nominee's duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding (whether written or oral) with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation, (c) would be in compliance, if elected as a director of the Corporation, and will comply with all applicable law and all applicable rules of the U.S. exchanges upon which the common stock of the Corporation is listed and all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and other guidelines of the Corporation, (d) will serve as a director of the Corporation if elected and intends to serve a full term if elected, and (e) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; (ii) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon written request by the Meeting Proponent providing the notice, and shall include, among other things, 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 and the rules thereunder, 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); and (iii) attaching a written director agreement (which agreement shall be provided by the secretary of the Corporation upon written request).

(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 (i) date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting or (ii) solely in the case of the first annual meeting of the Corporation held after adoption of these Bylaws, the date that Bluerock Residential Growth REIT, Inc. ("Bluerock Residential") mailed its proxy statement for the preceding year's annual meeting of Bluerock Residential, 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 these Bylaws, "Meeting Proponent" shall mean (i) the stockholder providing notice pursuant to clause (iii) of paragraph (a)(1) of this Section 11, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice is made, (iii) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for purposes of these Bylaws) of each such stockholder or beneficial owner and (iv) any other person which whom such stockholder or beneficial owner (or any of their respective affiliates or associates) is acting in concert.

-12-

---

(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 120th day prior to such special meeting and not later than 5:00 p.m., Eastern Time, on the later of the 90th 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 chairman 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, and, if any proposed nomination or other business is not in compliance with this Section 11, to declare that such defective proposal or nomination shall be disregarded. If the nomination of an individual is later determined not to be in accordance with this Section 11 at the

time of nomination due to the provision of information that is inaccurate in any material respect, such nominee must tender the nominee's irrevocable resignation, which shall be signed by the nominee.

-13-

---

(3) The Corporation may require any proposed nominee for director to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation. Except as otherwise determined by the chairman of the meeting, if the stockholder (or a qualified representative of the stockholder) making a nomination or proposal under this Section 11 does not appear at a meeting of stockholders to present such nomination or proposal, the nomination shall be disregarded and the proposed business shall not be transacted, as the case may be, notwithstanding that proxies in favor thereof may have been received by the Corporation. For purposes of this Section 11, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(4) 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.

(5) 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 and the rules and regulations thereunder 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 Meeting Proponent pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such Meeting Proponent under Section 14(a) of the Exchange Act.

Section 12. TELEPHONE AND REMOTE COMMUNICATION MEETINGS. The Board of Directors or chairman 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 communication in any matter permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

-14-

---

Section 13. 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 (a) 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, (b) if the action is advised, and submitted to the stockholders for approval, by the Board of Directors and a consent in writing or by electronic transmission of stockholders entitled to cast not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting of stockholders at which all stockholders entitled to vote on the matter are present and voted is delivered to the Corporation in accordance with the Maryland General Corporation Law, or any successor statute (the "MGCL"), or (c) in any manner set forth in the terms of any class or series of preferred stock of the Corporation. The Corporation shall give notice of any action taken by less than unanimous consent to each stockholder not later than ten days after the effective time of such action.

Section 14. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the MGCL or any successor statute, 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.

### 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 chairman of the Board of Directors 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, if any, 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, if any, for 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 chairman of the Board of Directors, 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, if any, for any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place, if any, for special meetings of the Board of Directors without other notice than such resolution.

---

-15-

---

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission 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. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. 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, the Charter or these Bylaws.

Section 6. QUORUM. A majority of the directors then in office 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 chairman of the Board of Directors or, in the absence of the chairman, the lead independent director, if any, shall act as chairman of the meeting. In the absence of both the chairman of the Board of Directors and the lead independent director, the chief executive officer or, in the absence of the chief executive officer, the president or, in the absence of the president, a director chosen by a majority of the directors present shall act as chairman 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 chairman of the meeting, shall act as secretary of the meeting.

---

-16-

---

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 directorship in which the vacancy occurred and until a successor is duly elected and qualifies or until his or her earlier death, resignation or removal.

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. Notwithstanding the foregoing, a director who is also an officer of the Corporation shall not receive additional compensation for such service as a director.

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.

---

-17-

---

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 AND OFFICERS. A director or officer of the Corporation shall have no responsibility to devote his or her full time to the affairs of the Corporation. Any director or officer, in his or her personal capacity or in a 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.

Section 16. EMERGENCY PROVISIONS. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "Emergency"). During any Emergency, unless otherwise provided by the Board of Directors, (a) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (b) notice of any meeting of the Board of Directors during such an Emergency may be given less than 24 hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (c) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

## **ARTICLE IV COMMITTEES**

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members 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 or prohibited by the charter of such committee, 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 and absolute discretion.

---

-18-

---

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 chairman of any committee, and such chairman or, in the absence of a chairman, 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 chairman of the Board of Directors, a vice chairman of the Board of Directors, 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 or agent of the Corporation appointed by the chief executive officer may be removed, with or without cause, by the chief executive officer if in the chief executive officer's 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 chairman of the Board of Directors, 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.

-19-

---

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

Section 4. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chairman of the Board of Directors 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 5. 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 6. 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 7. CHAIRMAN OF THE BOARD. The Board of Directors may designate from among its members a chairman of the Board of Directors, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chairman of the Board of Directors as an executive or non-executive chairman. The chairman of the Board of Directors shall preside over the meetings of the Board of Directors and over those meetings of the stockholders as may be required pursuant to the provisions of Article II, Section 5 of these Bylaws. The chairman of the Board of Directors shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

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 (a) have the custody of the funds and securities of the Corporation, (b) keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, (c) 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, (d) disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, (e) render to the president and the 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, 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. 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.

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 differences 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 or accompanied by proper evidence of succession, assignment or authority to transfer. The Corporation or, if authorized by the Corporation, the transfer agent of the Corporation shall cancel the old certificate and record the transaction on its books. 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, 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.

-22-

---

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 an indemnity or 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 adjourned or postponed, except if the meeting is adjourned or postponed 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 Corporation to issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

-23-

---

## **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 and declared by the Corporation, 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 and absolute 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 INVESTMENT POLICY**

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole and absolute discretion.

## **ARTICLE XI 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.

-24-

---

## **ARTICLE XII 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 XIII  
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, Northern Division shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) 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, (c) 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, the Charter or these Bylaws, or (d) any 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.

**ARTICLE XIV  
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.

TAX MATTERS AGREEMENT

by and among

BLUEROCK RESIDENTIAL GROWTH REIT, INC.,

BADGER PARENT LLC

BADGER HOLDCO LLC,

BLUEROCK HOMES TRUST, INC.,

BLUEROCK REIT HOLDINGS, LLC

AND

BLUEROCK RESIDENTIAL HOLDINGS, L.P.

Dated as of October 5, 2022

**TABLE OF CONTENTS**

ARTICLE 1. DEFINITIONS	2
Section 1.01 General	2
Section 1.02 Additional Definitions	8
ARTICLE 2. AGREED UPON TAX CHARACTERIZATION OF CERTAIN TRANSACTIONS AND REPORTING WITH RESPECT THERETO	8
Section 2.01 Intended Income Tax Treatment of Certain Aspects of the Separation Transactions	8
Section 2.02 Reporting of Transactions in a Manner Consistent with Intended Tax Treatment	10
ARTICLE 3. PREPARATION, FILING AND PAYMENT OF TAXES SHOWN DUE ON TAX RETURNS	10
Section 3.01 Combined Tax Returns	10
Section 3.02 RemainCo Separate Tax Returns	10
Section 3.03 SpinCo Separate Tax Returns	10
Section 3.04 Restructuring Transfer Tax Returns	10
ARTICLE 4. TAX RETURN PROCEDURES	11
Section 4.01 Procedures Relating to Combined Tax Returns	11
Section 4.02 Procedures Relating to RemainCo Separate Tax Returns	12
Section 4.03 Procedures Relating to SpinCo Separate Tax Returns	13
Section 4.04 Tax Returns Reflecting Restructuring Transfer Taxes	14
ARTICLE 5. TAX TIMING AND ALLOCATION	14
Section 5.01 Timing of Payments	14

Section 5.02 Expenses	14
ARTICLE 6. INDEMNIFICATION	14
Section 6.01 Indemnification by RemainCo	14
Section 6.02 Indemnification by SpinCo	14
Section 6.03 Characterization of and Modifications to Payment Amounts	14
Section 6.04 Timing of Indemnification Payments	15
Section 6.05 Certain Tax Procedures	15
Section 6.06 Survival of Indemnities	15
ARTICLE 7. REFUNDS AND DEDUCTIONS	15
Section 7.01 Refunds	15
Section 7.02 Certain Deductions	16
-i-	
ARTICLE 8. TAX PROCEEDINGS	16
Section 8.01 Notification of Tax Proceedings	16
Section 8.02 Tax Proceedings	17
ARTICLE 9. COOPERATION	18
Section 9.01 General Cooperation	18
Section 9.02 Retention of Records	19
ARTICLE 10. MISCELLANEOUS	19
Section 10.01 Dispute Resolution	19
Section 10.02 Tax Sharing Agreements	20
Section 10.03 Interest on Late Payments	20
Section 10.04 Survival	20
Section 10.05 Counterparts; Entire Agreement; Corporate Power	20
Section 10.06 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial	21
Section 10.07 Assignability	23
Section 10.08 Third-Party Beneficiaries	23
Section 10.09 Notices	23
Section 10.10 Severability	24
Section 10.11 Force Majeure	24
Section 10.12 No Set-Off	24
Section 10.13 Headings	24

Section 10.14	Waivers of Default	24
Section 10.15	Specific Performance	25
Section 10.16	Amendments and Consents	25
Section 10.17	Interpretation	25
Section 10.18	Limitations of Liability	26
Section 10.19	Performance	26
Section 10.20	Mutual Drafting	26
Section 10.21	No Duplication; No Double Recovery	26
Section 10.22	Effective Date	26

## TAX MATTERS AGREEMENT

THIS TAX MATTERS AGREEMENT (this “Agreement”), dated as of October 5, 2022 is by and among Bluerock Residential Growth REIT, Inc., a Maryland corporation (“RemainCo”), Badger Parent LLC, a Delaware limited liability company (“Badger Parent”), Badger Holdco LLC, a Delaware limited liability company (“RemainCo LLC”), Bluerock Homes Trust, Inc., a Maryland corporation (“SpinCo”), Bluerock REIT Holdings, LLC, a Delaware limited liability company (“REIT Holdings”) and Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “OP”). Each of RemainCo, RemainCo LLC, SpinCo, REIT Holdings and the OP is sometimes referred to herein as a “Party” and, collectively, as the “Parties.”

## RECITALS

WHEREAS, RemainCo, Badger Parent LLC and Badger Merger Sub LLC, a Delaware limited liability company (“Badger Merger Sub”), entered into an Agreement and Plan of Merger, dated as of December 20, 2021 (as amended or supplemented from time to time, the “Merger Agreement”), pursuant to which RemainCo will merge with and into Badger Merger Sub, a wholly owned subsidiary of Badger Parent (the “Merger”), with Badger Merger Sub continuing as the surviving company of the Merger;

WHEREAS, prior to the Distribution (as defined below), RemainCo, RemainCo LLC, SpinCo and the OP will, and will cause their respective Subsidiaries to, consummate a series of reorganization and separation transactions to separate the SpinCo Business from the RemainCo Business (the “Separation”) pursuant to the Separation and Distribution Agreement, dated as of October 5, 2022 (the “Separation and Distribution Agreement”), by and among RemainCo, SpinCo, RemainCo LLC, the OP and Badger Parent, and in accordance with the Separation Step Plan (the “Separation Step Plan”) set forth on Schedule 2.1(a) to the Separation and Distribution Agreement pursuant to which, among other things: (a) the OP will contribute (or cause to be contributed) or otherwise transfer (or cause to be transferred) to RemainCo LLC, a newly formed limited liability company and a direct wholly owned Subsidiary of the OP treated as a disregarded entity for U.S. federal income tax purposes, or other designees as described in the Separation and Distribution Agreement, the Parent Assets (as defined in the Separation and Distribution Agreement) held by it or its Subsidiaries (b) the OP will (following the completion of the transactions described in clause (a)) distribute all of the equity interests in RemainCo LLC to RemainCo in exchange for a redemption of 25,210,092 of RemainCo’s Common Units (as defined in the Partnership Agreement) and all of RemainCo’s Preferred Units (as defined in the Partnership Agreement) (the “RemainCo OP Redemption”), (c) the OP will effect a “unit split” pursuant to which the Common Units (as defined in the Partnership Agreement) will be recapitalized such that the number of the Common Units (as defined in the Partnership Agreement) held by RemainCo following the RemainCo OP Redemption in clause (b) will equal the number of outstanding Parent Common Shares (as defined in the Separation and Distribution Agreement) immediately following the Distribution (the “OP Recapitalization”), and (d) RemainCo will contribute or cause to be contributed all of its Partnership Interests (as defined in the Partnership Agreement) remaining after the RemainCo OP Redemption and the OP Recapitalization in clauses (b) and (c), including its General Partnership Interest (as defined in the Partnership Agreement), to SpinCo in exchange for (i) a number of additional SpinCo

Common Shares (as defined in the Separation and Distribution Agreement) such that RemainCo holds 1 SpinCo Common Share for each 8 issued and outstanding RemainCo Common Shares (as defined in the Separation and Distribution Agreement) as of immediately prior to the Distribution and (ii) a number of additional SpinCo Class C Common Shares (as defined in the Separation and Distribution Agreement) such that RemainCo holds 1 SpinCo Class C Common Share for each 8 issued and outstanding RemainCo Class C Common Shares (as defined in the Separation and Distribution Agreement) as of immediately prior to the Distribution (the “OP Contribution”);

---

WHEREAS, pursuant to the Separation and Distribution Agreement, prior to the Merger and following the Separation, RemainCo will make a distribution, on a *pro rata* basis, to the stockholders of RemainCo on the Record Date (as defined in the Separation and Distribution Agreement) of all of the outstanding SpinCo Shares owned by RemainCo (the “Distribution,” and together with the Separation, the “Separation Transactions”) and, as a result of the Distribution, SpinCo will cease to be a QRS of RemainCo and commence operations as an independent publicly-traded UPREIT;

WHEREAS, SpinCo (a) will make an election to be taxed as a REIT under Sections 856-860 of the Code for its taxable year commencing on the date of Distribution and ending December 31, 2022 and (b) will jointly make a protective election with RemainCo to be treated as a TRS of RemainCo, in the case of each of clause (a) and this clause (b), effective as of the date of the Distribution;

WHEREAS, the Parties have completed certain preliminary actions in connection with the Separation and the Distribution, including the formation of SpinCo and the formation of RemainCo LLC, in each case, in accordance with the Merger Agreement and the Separation and Distribution Agreement; and

WHEREAS, in conjunction with, and to further implement, the Separation Transactions, contemplated by the Separation and Distribution Agreement, the Parties wish to enter into this Agreement to (a) provide for the intended and agreed upon characterization of certain aspects of the Separation Transactions for U.S. federal income tax purposes, (b) provide for the payment of Tax liabilities and entitlement to refunds thereof, (c) allocate responsibility for, and cooperation in, the filing of Tax Returns, and (d) provide for certain other matters relating to Taxes.

NOW, THEREFORE, in consideration of the foregoing and the terms, conditions, covenants and provisions of this Agreement, each of the Parties mutually covenants and agrees as follows:

## ARTICLE 1.

### DEFINITIONS

Section 1.01 General. As used in this Agreement, the following terms shall have the following meanings:

“Accounting Firm” has the meaning set forth in Section 10.01(b).

“Adjustment” means any change in the Tax liability of a taxpayer pursuant to a Final Determination, whether in connection with a Tax Proceeding, resulting from a change in facts or subsequent transactions, pursuant to amendment or otherwise, determined issue-by-issue, transaction-by-transaction, or with respect to a taxable period, as the case may be.

---

-2-

---

“Agreement” has the meaning set forth in the preamble.

“Ancillary Agreements” has the meaning set forth in the Separation and Distribution Agreement.

“Badger Merger Sub” has the meaning set forth in the recitals.

“Badger Parent” has the meaning set forth in the recitals.

“BBA Rules” means Subchapter C of Chapter 63 of the Code (Sections 6221 et seq.), as enacted by the Bipartisan Budget Act of 2015, as amended from time to time, and any Treasury Regulations and other guidance promulgated thereunder, and any similar state or local legislation, regulations or guidance.

“Benefited Party” has the meaning set forth in Section 7.01(b).

“Chosen Courts” has the meaning set forth in Section 10.06(a).

“Code” means the Internal Revenue Code of 1986, as amended.

“Combined Tax Return” means any consolidated, combined, unitary, affiliated or similar Tax Return that includes one or more members of the RemainCo Group, on the one hand, together with one or more members of the SpinCo Group, on the other hand.

“Combined Tax Return Non-Preparer” means, with respect to any Combined Tax Return and for any taxable period, (x) SpinCo, if RemainCo is the Combined Tax Return Preparer with respect to such Combined Tax Return for such taxable period and (y) RemainCo, if SpinCo is the Combined Tax Return Preparer with respect to such Combined Tax Return for such taxable period.

“Combined Tax Return Preparer” means, with respect to any Combined Tax Return and for any taxable period, (x) SpinCo, if SpinCo or a member of the SpinCo Group is the common parent of the group filing such Combined Tax Return for such taxable period or is required to file such Combined Tax Return for such taxable period under applicable Law or (y) RemainCo, if RemainCo or a member of the RemainCo Group is the common parent of the group filing such Combined Tax Return for such taxable period or is required to file such Combined Tax Return for such taxable period under applicable Law.

“Distribution” has the meaning set forth in the recitals.

“Due Date” means (a) with respect to a Tax Return, the date (taking into account all valid extensions) on which such Tax Return is required to be filed under applicable Law and (b) with respect to a payment of Taxes, the date on which such payment is required to be made to avoid the incurrence of interest, penalties and/or additions to Tax.

“Effective Time” has the meaning set forth in the Separation and Distribution Agreement.

“Final Determination” means the final resolution of liability for any Tax or Tax Item, which resolution may be for a specific issue or adjustment or for a taxable period, by or as a result of (i) IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the Laws of any Taxing Jurisdiction, except that an IRS Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for Refund or the right of the Taxing Authority to assert a further deficiency in respect of such issue or adjustment or for such taxable period (as the case may be); (ii) a final decision, judgment, decree or other order by any court of competent jurisdiction that can no longer be appealed; (iii) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the Laws of any Taxing Jurisdiction; (iv) any allowance of a Refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such Refund or credit may be recovered by the jurisdiction imposing the Tax; or (v) any other final resolution, including by reason of the expiration of the applicable statute of limitations, the execution of a pre-filing agreement with the IRS or other Taxing Authority or by mutual agreement of the Parties.

“Indemnified Party” means the Party which is entitled to seek indemnification from another Party pursuant to the provisions of Article 6.

“Indemnifying Party” means the Party from which another Party is entitled to seek indemnification pursuant to the provisions of Article 6.

“Intended Tax Treatment” has the meaning set forth in Section 2.01.



“IRS” means the U.S. Internal Revenue Service.

“Law” has the meaning set forth in the Separation and Distribution Agreement.

“Merger” has the meaning set forth in the recitals.

“Merger Agreement” has the meaning set forth in the recitals.

“Merger Consideration” has the meaning set forth in the Merger Agreement.

“OP” has the meaning set forth in the preamble.

“OP Contribution” has the meaning set forth in the recitals.

“OP Partner” means any Person treated as a partner of the OP for U.S. federal income tax purposes other than RemainCo or REIT Holdings.

“OP Recapitalization” has the meaning set forth in the recitals.

“OP Tax Return” means any Separate Return required to be filed by the OP.

“Parties” has the meaning set forth in the preamble.

---

-4-

---

“Partnership Agreement” has the meaning set forth in the Separation and Distribution Agreement.

“Party” has the meaning set forth in the preamble.

“Past Practice” has the meaning set forth in Section 4.01(a).

“Person” has the meaning set forth in the Separation and Distribution Agreement.

“Preferred Stock Redemption Amount” has the meaning set forth in the Merger Agreement.

“Prime Rate” has the meaning set forth in the Separation and Distribution Agreement.

“Proceedings” has the meaning set forth in Section 10.06(a).

“QRS” means a corporation that is treated for U.S. federal income tax purposes as a “qualified REIT subsidiary” (within the meaning of Section 856(i)(2) of the Code) with respect to a REIT.

“Refund” means any refund (or credit in lieu thereof) of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied to other Taxes payable), including any interest paid on or with respect to such refund of Taxes; provided, however, that for purposes of this Agreement, the amount of any Refund required to be paid to another Party shall be reduced by the net amount of any Taxes imposed on, related to, or attributable to, the receipt or accrual of such Refund.

“REIT” means a real estate investment trust within the meaning of Section 856(a) of the Code.

“REIT Holdings” has the meaning set forth in the preamble.

“REIT Taxes” means (i) any Taxes imposed as a result of the disqualification of RemainCo or SpinCo, as the case may be, as a REIT, (ii) any Taxes imposed under Section 857(b)(5) of the Code, and (iii) any excise Taxes imposed under Section 4981 of the Code.

“RemainCo” has the meaning set forth in the preamble. For all purposes of this Agreement, any reference to RemainCo shall include a reference to Badger Merger Sub following the Merger as successor to Bluerock Residential Growth REIT, Inc. as a result of the Merger.

“RemainCo Business” has the meaning ascribed to the term “Parent Business” in the Separation and Distribution Agreement.

“RemainCo Group” has the meaning ascribed to the term “Parent Group” in the Separation and Distribution Agreement.

“RemainCo LLC” has the meaning set forth in the preamble.

“RemainCo OP Redemption” has the meaning set forth in the recitals.

---

-5-

---

“RemainCo Separate Tax Return” means any Separate Return required to be filed by any member of the RemainCo Group.

“RemainCo Tax Proceeding” has the meaning set forth in Section 8.02(a).

“RemainCo Taxes” means, without duplication, (a) any Taxes imposed with respect to any Combined Tax Return, (b) any Taxes imposed on any member of the RemainCo Group for any taxable period, (c) any “imputed underpayment” within the meaning of Section 6225 of the Code (and any similar liability imposed under the BBA Rules) and any other related Taxes arising out of an adjustment to any Tax Return of the OP pursuant to the BBA Rules, in each case, attributable to RemainCo or any member of the RemainCo Group for any taxable period and (d) any Taxes resulting from any inaccuracy in or breach by RemainCo or any member of the RemainCo Group of any representation, warranty or covenant made by RemainCo in the Separation Agreements, in the case of clauses (a) through (c) above, other than (x) any Taxes resulting from any inaccuracy in or breach by SpinCo or any member of the SpinCo Group of any representation, warranty or covenant made by SpinCo in the Separation Agreements or (y) any Taxes resulting from any breach by RemainCo or any other member of the RemainCo Group prior to the Separation of an obligation to cause a member of the SpinCo Group to take or refrain from taking any action set forth in the Separation Agreements.

“Representatives” has the meaning set forth in the Separation and Distribution Agreement.

“Responsible Party” has the meaning set forth in Section 7.01(b).

“Restructuring Transfer Taxes” means any Transfer Taxes imposed on, in connection with, or by reason of the Merger or any of the Separation Transactions.

“Separate Return” means (i) in the case of any Tax Return required to be filed by any member of the RemainCo Group (including any consolidated, combined, unitary or similar Tax Return), any such Tax Return that does not include any member of the SpinCo Group and (ii) in the case of any Tax Return required to be filed by any member of the SpinCo Group (including any consolidated, combined, unitary or similar Tax Return), any such Tax Return that does not include any member of the RemainCo Group.

“Separation” has the meaning set forth in the recitals.

“Separation Agreements” means the Separation and Distribution Agreement, this Agreement and the other Ancillary Agreements.

“Separation and Distribution Agreement” has the meaning set forth in the recitals.

“Separation Step Plan” has the meaning set forth in the recitals.

“Separation Transactions” has the meaning set forth in the recitals and includes, for the avoidance of doubt, all transactions set forth in the Separation Step Plan, including the Separation and the Distribution.

“SpinCo” has the meaning set forth in the preamble.

“SpinCo Business” has the meaning set forth in the Separation and Distribution Agreement.

“SpinCo Group” has the meaning set forth in the Separation and Distribution Agreement.

“SpinCo Separate Tax Return” means any Separate Return required to be filed by any member of the SpinCo Group (including, for the avoidance of doubt, any OP Tax Return that is an income Tax Return).

“SpinCo Shares” has the meaning set forth in the Separation and Distribution Agreement.

“SpinCo Tax Proceeding” has the meaning set forth in Section 8.02(a).

“SpinCo Taxes” means, without duplication, (a) any Taxes of or imposed on any member of the SpinCo Group for any taxable period other than any RemainCo Taxes, and (b) any Taxes resulting from any inaccuracy in or breach by SpinCo of any representation, warranty or covenant made by SpinCo in the Separation Agreements (or any breach by SpinCo or any other member of the SpinCo Group prior to the Separation of an obligation to cause a member of the RemainCo Group to take or refrain from taking any action set forth in the Separation Agreements).

“Subsidiary” has the meaning set forth in the Separation and Distribution Agreement.

“Tax” means (i) all taxes, charges, fees, duties, levies, imposts, or other similar assessments, imposed by any U.S. federal, state or local or foreign governmental authority, including, but not limited to, income, gross receipts, excise, property, sales, use, license, capital stock, transfer, franchise, margin, payroll, withholding, social security, value added and other taxes, (ii) any interest, penalties or additions attributable thereto and (iii) all liabilities in respect of any items described in clause (i) or (ii) payable by reason of assumption, transferee or successor liability, operation of Law or Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under Law).

“Tax Item” means, with respect to any income tax, any item of income, gain, loss, deduction or credit.

“Tax Matter” has the meaning set forth in Section 9.01(a).

“Tax Package” means all relevant Tax-related information relating to the operations of the business of the RemainCo Group or the SpinCo Group, as applicable, that is reasonably necessary to prepare and file the applicable Tax Return.

“Tax Proceeding” means any audit, assessment of Taxes, pre-filing agreement, other examination by any Taxing Authority, proceeding, appeal of a proceeding or litigation relating to Taxes or any claim for refund, whether administrative or judicial, including proceedings relating to competent authority determinations.

“Tax Return” means any return, report, certificate, form or similar statement or document (including any related or supporting information or schedule attached thereto and any information return, or declaration of estimated Tax) supplied to, filed with or required to be supplied to or filed with, a Taxing Authority in connection with the payment, determination, assessment or collection of any Tax or the administration of any Laws relating to any Tax and any amended Tax return or claim for refund and any amendment of any of the foregoing.

“Taxing Authority” means any governmental authority or any subdivision, agency, commission or entity thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax (including the IRS).

“Taxing Jurisdiction” means the United States and every other government or governmental unit having jurisdiction to tax any member of the RemainCo Group or any member of the SpinCo Group.

“Transfer Taxes” means all sales, use, transfer, real property transfer (whether such transfer is direct or indirect), intangible, recordation, registration, documentary, stamp or similar Taxes.

“Treasury Regulations” means the income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“TRS” means any corporation that is treated for U.S. federal income tax purposes as “taxable REIT subsidiary” (within the meaning of Section 856(l) of the Code) with respect to any REIT.

“UPREIT” means an umbrella partnership real estate investment trust.

“U.S.” means the United States of America.

Section 1.02 Additional Definitions. Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Separation and Distribution Agreement.

## ARTICLE 2.

### AGREED UPON TAX CHARACTERIZATION OF CERTAIN TRANSACTIONS AND REPORTING WITH RESPECT THERETO

#### Section 2.01 Intended Income Tax Treatment of Certain Aspects of the Separation Transactions.

(a) The Parties intend that for U.S. federal and applicable state income tax purposes, the following aspects of the Separation Transactions shall be treated as follows:

(i) all transactions comprising the Separation Transactions shall be considered to occur in the time and order and manner set forth in the Separation Steps Plan;

(ii) the RemainCo OP Redemption shall be treated as a distribution by the OP to RemainCo in exchange for a part of RemainCo’s interest in the OP in partial liquidation of RemainCo’s interest in the OP, and none of the OP, RemainCo and the OP Partners shall be treated as recognizing any income or gain as a result of the RemainCo OP Redemption (except to the extent of any income or gain resulting from an actual or deemed distribution of money to any such Person, including pursuant to Section 752(b) of the Code as a result of a decrease in such Person’s share of the OP’s liabilities as determined after taking into account all related transactions);

-8-

---

(iii) the OP Recapitalization shall be treated as a transaction that is described in Section 721 of the Code or that is disregarded or otherwise treated as tax-free for U.S. federal income tax purposes;

(iv) at all times prior to immediately before the Effective Time, SpinCo shall be treated as a QRS of RemainCo;

(v) as a result of the Distribution, (A) SpinCo shall cease to be a QRS with respect to RemainCo and (B) pursuant to Section 856(i)(3) of the Code, SpinCo shall be treated as a new corporation acquiring all of its assets and assuming all of its liabilities from RemainCo (that it acquired and assumed as a result of the OP Contribution) immediately before ceasing to be a QRS, in a transaction governed by Section 351(a) of the Code;

(vi) the Distribution shall be treated in accordance with clause (viii) below and not as a distribution subject to Section 301 of the Code or a transaction described in Section 355 of the Code;

(vii) the Merger shall be treated as a taxable sale by RemainCo of all of its assets (for the avoidance of doubt, after taking into account the Separation and Distribution) to Badger Merger Sub (or if Badger Merger Sub is a disregarded entity, its regarded owner for U.S. federal income tax purposes) in exchange for the Merger Consideration, the Preferred Stock

Redemption Amount, the assumption of all of RemainCo's liabilities (for the avoidance of doubt, after taking into account the Separation and Distribution) and any other applicable amounts, immediately followed by the distribution of the Merger Consideration and the Preferred Stock Redemption Amount (and any other applicable amounts) by RemainCo to its shareholders in complete liquidation of RemainCo (as further described in clause (h) below);

(viii) the Distribution, together with the receipt by the shareholders of RemainCo of the Merger Consideration and the Preferred Stock Redemption Amount (and any other applicable amounts), shall be treated as a distribution by RemainCo to its shareholders in complete liquidation of RemainCo pursuant to Revenue Ruling 69-6, 1969-1 C.B. 104, Section 331(a) of the Code and Section 562(b)(1) of the Code, in full payment in exchange for RemainCo stock; and

(ix) the fair market value of the SpinCo Shares distributed in the Distribution shall be as reasonably determined by SpinCo in a manner consistent with applicable Law.

Clauses (i) through (ix), collectively, are referred to herein as the "Intended Tax Treatment".

(b) SpinCo REIT Election. SpinCo (i) shall make an election to be taxed as a REIT under Sections 856-860 of the Code for its taxable year commencing on the date of Distribution and ending December 31, 2022 and (ii) shall jointly make a protective election with RemainCo to be treated as a TRS of RemainCo, in the case of each of clause (i) and this clause (ii), effective as of the date of the Distribution.

-9-

---

Section 2.02 Reporting of Transactions in a Manner Consistent with Intended Tax Treatment. The Parties agree to treat the Separation Transactions in a manner consistent with the Intended Tax Treatment. Without limiting the foregoing, and notwithstanding anything herein to the contrary, all Tax Returns prepared by or on behalf of any Party shall be prepared in a manner consistent with the Intended Tax Treatment, and no Party shall take any contrary or inconsistent position, whether in a Tax Return or otherwise, including any dealings involving the IRS (including, without limitation, any audit, administrative appeal or any judicial proceeding involving the Tax Returns of the Party or the tax treatment of any Party), except to the extent otherwise required by a Final Determination.

### ARTICLE 3.

#### PREPARATION, FILING AND PAYMENT OF TAXES SHOWN DUE ON TAX RETURNS

Section 3.01 Combined Tax Returns. In the case of any Combined Tax Return, the Combined Tax Return Preparer shall prepare and file (or cause to be prepared and filed) such Combined Tax Return, and the Combined Tax Return Preparer shall pay (or cause to be paid) all Taxes shown to be due and payable on such Combined Tax Return; provided, that in the case of any Combined Tax Return for which SpinCo is the Combined Tax Return Preparer, RemainCo and RemainCo LLC shall reimburse (or cause to be reimbursed) SpinCo and the OP for any such Taxes.

Section 3.02 RemainCo Separate Tax Returns. Subject to Section 3.04, RemainCo shall prepare and file (or cause to be prepared and filed) all RemainCo Separate Tax Returns, and RemainCo and RemainCo LLC shall pay (or cause to be paid) all Taxes shown to be due and payable on such Tax Returns.

Section 3.03 SpinCo Separate Tax Returns. Subject to Section 3.04, SpinCo shall prepare and file (or cause to be prepared and filed) all SpinCo Separate Tax Returns, and SpinCo and the OP shall pay (or cause to be paid) any Taxes shown to be due and payable on such Tax Returns; provided that RemainCo and RemainCo LLC shall reimburse (or cause to be reimbursed) SpinCo and the OP for any such Taxes that are RemainCo Taxes.

Section 3.04 Restructuring Transfer Tax Returns. Notwithstanding anything to the contrary in this Agreement, RemainCo shall prepare and file (or cause to be prepared and filed) all Tax Returns required to be filed with respect to Restructuring Transfer Taxes and, if required by applicable Law, SpinCo shall, and shall cause its respective Affiliates to, join in the execution of any such Tax Returns and other documentation. RemainCo and RemainCo LLC shall pay (or cause to be paid) all Taxes shown as due and payable on such Tax Returns.

## ARTICLE 4.

### TAX RETURN PROCEDURES

#### Section 4.01 Procedures Relating to Combined Tax Returns.

(a) The determination of the entities to be included in any Combined Tax Return shall be made in accordance with the past practices, accounting methods, elections and conventions of RemainCo and its Subsidiaries (“Past Practice”). In connection with the preparation of any Combined Tax Return pursuant to Section 3.01 by the Combined Tax Return Preparer that may include Tax Items relating to the activities or assets of the Combined Tax Return Non-Preparer or any member of its Group (or the Combined Tax Return Non-Preparer’s Business), the Combined Tax Return Non-Preparer will assist and cooperate with the Combined Tax Return Preparer by preparing and providing to the Combined Tax Return Preparer such information and other documentation as may be reasonably requested by or reasonably necessary to enable the Combined Tax Return Preparer, in such form as the Combined Tax Return Preparer may reasonably request, to prepare such Combined Tax Return, with such information and other documentation to be delivered no later than thirty (30) days following the Combined Tax Return Preparer’s request therefor, subject to reasonable delay.

(b) In the case of any Combined Tax Return in respect of which SpinCo is the Combined Tax Return Preparer, SpinCo shall, (1) except to the extent otherwise required by applicable Law, Article 2 or Section 4.03(c), prepare and file such Combined Tax Return in a manner consistent with Past Practice and (2) submit to RemainCo a draft of any such Tax Return (along with a statement setting forth the calculation of the Tax shown due and payable on such Tax Return reimbursable by RemainCo under Article 3) at least thirty (30) days prior to the Due Date for such Tax Return, subject to reasonable delay as communicated by SpinCo to RemainCo, to enable RemainCo to analyze and comment on such Tax Return. RemainCo shall deliver any comments on any such Combined Tax Return to SpinCo no later than fifteen (15) days following the receipt of the draft of such Combined Tax Return from SpinCo, subject to reasonable delay as communicated by RemainCo to SpinCo. SpinCo shall revise (or cause to be revised) such Combined Tax Return prior to filing to reflect any reasonable comments timely received from RemainCo; provided that, subject to the final sentence of this Section 4.01(b), SpinCo shall not be required to reflect any such comments that are inconsistent with (x) Article 2, Section 4.03(c) or applicable Law or (y) to the extent such items could have a more than a de-minimis effect on SpinCo Taxes for which SpinCo and the OP may be responsible, Past Practice (to the extent Past Practice is not inconsistent with Article 2, Section 4.03(c) or applicable Law); provided, further, that in the case of clause (y), SpinCo shall consider any such comments in good faith and SpinCo and RemainCo shall attempt in good faith to resolve any issues arising out of such comments. Notwithstanding the foregoing, SpinCo shall not (and shall cause members of its Group not to) file any Combined Tax Return without the prior written consent of RemainCo, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) In the case of any Combined Tax Return in respect of which RemainCo is the Combined Tax Return Preparer, RemainCo shall, unless otherwise required by applicable Law, Article 2 or Section 4.03(c), (1) prepare and file such Combined Tax Return in a manner consistent with Past Practice to the extent such items could have a more than a de-minimis effect on SpinCo Taxes for which SpinCo and the OP may be responsible pursuant to this Agreement, and (2) submit to SpinCo a draft of any such Tax Return at least thirty (30) days prior to the Due Date for such Tax Return, subject to reasonable delay as communicated by RemainCo to SpinCo, to enable SpinCo to analyze and comment on such Tax Return. SpinCo shall deliver any comments on such Combined Tax Return to RemainCo no later than fifteen (15) days following the receipt of the draft of such Combined Tax Return from RemainCo, subject to reasonable delay as communicated by SpinCo to RemainCo. RemainCo shall consider any such comments timely received from SpinCo in good faith and SpinCo and RemainCo shall attempt in good faith to resolve any issues arising out of such comments (it being understood that nothing herein shall prevent RemainCo from timely filing (or causing to be filed) any such Tax Return). In the event SpinCo and RemainCo are not able to resolve any such issues to the extent relating to SpinCo Taxes for which SpinCo and the OP would reasonably be expected to be liable hereunder, such issues shall be resolved by the Accounting Firm pursuant to Section 10.01. In the event that any such dispute is not resolved (whether pursuant to good faith negotiations among the Parties or by the Accounting Firm) prior to the Due Date for the filing of any such Combined Tax Return, such Tax Return shall be timely filed (or caused to be filed) by RemainCo as originally prepared by RemainCo and reflecting any changes agreed to by RemainCo and SpinCo, and the Parties shall agree to amend such Tax Return as necessary to reflect the resolution of such dispute in a manner consistent with such resolution.

#### Section 4.02 Procedures Relating to RemainCo Separate Tax Returns.

(a) In connection with the preparation of any RemainCo Separate Tax Return pursuant to Section 3.02 that may include Tax Items relating to the activities or assets of SpinCo or any member of the SpinCo Group (or the SpinCo Business), SpinCo will assist and cooperate with RemainCo by preparing and providing to RemainCo such information and other documentation as may be reasonably requested by or reasonably necessary to enable RemainCo, in such form as RemainCo may reasonably request, to prepare such Tax Return, with such information and other documentation to be delivered no later than thirty (30) days following RemainCo's request therefor, subject to reasonable delay.

(b) In the case of any RemainCo Separate Tax Return that reflects, relates to or could affect SpinCo Taxes for which SpinCo and the OP would reasonably be expected to be liable hereunder, RemainCo shall (1) unless otherwise required by applicable Law, Article 2 or Section 4.03(c), prepare (or cause to be prepared) such Tax Return in a manner consistent with Past Practice to the extent such items could have a more than a de-minimis effect on SpinCo Taxes for which SpinCo and the OP may be responsible pursuant to this Agreement, and (2) submit to SpinCo a draft of any such Tax Return at least thirty (30) days prior to the Due Date for such Tax Return, subject to reasonable delay as communicated by RemainCo to SpinCo, to enable SpinCo to analyze and comment on such Tax Return. SpinCo shall deliver any comments on any such Tax Return to RemainCo no later than fifteen (15) days following the receipt of the draft of such Tax Return from RemainCo, subject to reasonable delay as communicated by SpinCo to RemainCo. RemainCo shall consider any such comments timely received from SpinCo in good faith and SpinCo and RemainCo shall attempt in good faith to resolve any issues arising out of the review of any such RemainCo Separate Tax Return (it being understood that nothing herein shall prevent RemainCo from timely filing (or causing to be filed) any such Tax Return). In the event SpinCo and RemainCo are not able to resolve any such issues to the extent relating to SpinCo Taxes for which SpinCo and the OP would reasonably be expected to be liable hereunder, such issues shall be resolved by the Accounting Firm pursuant to Section 10.01. In the event that any such dispute is not resolved (whether pursuant to good faith negotiations among the Parties or by the Accounting Firm) prior to the Due Date for the filing of any such RemainCo Separate Tax Return, such Tax Return shall be timely filed (or caused to be filed) by RemainCo as originally prepared by RemainCo and reflecting any changes agreed to by RemainCo and SpinCo, and the Parties shall agree to amend such Tax Return as necessary to reflect the resolution of such dispute in a manner consistent with such resolution.

-12-

---

#### Section 4.03 Procedures Relating to SpinCo Separate Tax Returns.

(a) In connection with the preparation of any SpinCo Separate Tax Return pursuant to Section 3.03 that may include Tax Items relating to the activities or assets of RemainCo or any member of the RemainCo Group (or the RemainCo Business), RemainCo will assist and cooperate with SpinCo by preparing and providing to SpinCo such information and other documentation as may be reasonably requested by or reasonably necessary to enable SpinCo, in such form as SpinCo may reasonably request, to prepare such Tax Return, with such information and other documentation to be delivered no later than thirty (30) days following SpinCo's request therefor, subject to reasonable delay.

(b) In the case of any SpinCo Separate Tax Return that reflects, relates to or could affect RemainCo Taxes for which RemainCo and RemainCo LLC would reasonably be expected to be liable hereunder, SpinCo shall (1) unless otherwise required by applicable Law, Article 2 or Section 4.03(c), prepare (or cause to be prepared) such Tax Return in a manner consistent with Past Practice to the extent such items could have a more than a de-minimis effect on RemainCo Taxes for which RemainCo and RemainCo LLC may be responsible pursuant to this Agreement, and (2) submit to RemainCo a draft of any such Tax Return (along with a statement setting forth the calculation of the Tax shown due and payable on such Tax Return reimbursable by RemainCo under Article 3) at least thirty (30) days prior to the Due Date for such Tax Return, subject to reasonable delay as communicated by SpinCo to RemainCo, to enable RemainCo to analyze and comment on such Tax Return. RemainCo shall deliver any comments on any such Tax Return to SpinCo no later than fifteen (15) days following the receipt of the draft of such Tax Return from SpinCo, subject to reasonable delay as communicated by RemainCo to SpinCo. SpinCo shall consider any such comments timely received from RemainCo in good faith and RemainCo and SpinCo shall attempt in good faith to resolve any issues arising out of the review of any such SpinCo Separate Tax Return (it being understood that nothing herein shall prevent SpinCo from timely filing (or causing to be filed) any such Tax Returns). In the event SpinCo and RemainCo are not able to resolve any such issues to the extent relating to RemainCo Taxes for which RemainCo and RemainCo LLC would reasonably be expected to be liable hereunder, such issues shall be resolved by the Accounting Firm pursuant to Section 10.01. In the event that any such dispute is not resolved (whether pursuant to good faith negotiations among the Parties or by the Accounting Firm) prior to the Due Date for the filing of any such SpinCo Separate Tax Return, such Tax Return shall be timely filed

(or caused to be filed) by SpinCo as originally prepared by SpinCo and reflecting any changes agreed to by RemainCo and SpinCo, and the Parties shall agree to amend such Tax Return as necessary to reflect the resolution of such dispute in a manner consistent with such resolution.

(c) Except as otherwise required as a result of a Final Determination, neither RemainCo nor SpinCo shall (nor shall cause or permit any members of the RemainCo Group and SpinCo Group, respectively, to), take any position inconsistent with the treatment of any of the Separation Transactions as reported by the OP on an OP Tax Return as finally determined pursuant to Section 4.03(b).

-13-

---

Section 4.04 Tax Returns Reflecting Restructuring Transfer Taxes. Notwithstanding anything to the contrary in Articles 3, 4 and 5, any Tax Return required to be filed with respect to any Restructuring Transfer Taxes shall be prepared and approved by RemainCo in the manner determined by RemainCo in its sole discretion, subject to the provisions of Section 2.01, 2.02 and 4.03(c). If required by applicable Law, SpinCo shall, and shall cause its respective Affiliates to, join in the execution of any such Tax Returns and other documentation.

## ARTICLE 5.

### TAX TIMING AND ALLOCATION

Section 5.01 Timing of Payments. All Taxes required to be paid or caused to be paid pursuant to Article 3 or Article 4 by either the RemainCo Group, or the SpinCo Group, as the case may be, to an applicable Taxing Authority or to be reimbursed by RemainCo and RemainCo LLC or the OP and SpinCo to the other Party (or any member of its Group) pursuant to this Agreement, shall, in the case of a payment to a Taxing Authority, be paid on or before the Due Date for the payment of such Taxes and, in the case of a payment to the other Party, be paid at least two (2) business days before the Due Date for the payment of such Taxes by the other Party.

Section 5.02 Expenses. Except as expressly provided herein, each Party shall bear its own expenses incurred in connection with Articles 3, 4 and 5.

## ARTICLE 6.

### INDEMNIFICATION

Section 6.01 Indemnification by RemainCo. RemainCo and RemainCo LLC shall pay, and shall indemnify and hold the SpinCo Group harmless from and against, without duplication, (i) all RemainCo Taxes, and (ii) any costs and expenses related to the foregoing (including reasonable fees of attorneys and experts and out-of-pocket expenses).

Section 6.02 Indemnification by SpinCo. SpinCo and the OP shall pay, and shall indemnify and hold the RemainCo Group harmless from and against, without duplication, (i) all SpinCo Taxes, and (ii) any costs and expenses related to the foregoing (including reasonable fees of attorneys and experts and out-of-pocket expenses).

Section 6.03 Characterization of and Modifications to Payment Amounts.

(a) For all Tax purposes, the Parties agree to treat (and to cause their respective Affiliates to treat) (i) any payment required by this Agreement (other than payments with respect to interest, pursuant to Section 7.01(b) or Section 10.03 hereof, accruing after the Effective Time) as either a contribution by RemainCo to SpinCo or a distribution by SpinCo to RemainCo, as the case may be, occurring immediately prior to the Distribution or as a payment of an assumed or retained Liability and (ii) any payment of non-U.S. federal Taxes by or to a Taxing Authority or any payment of interest as taxable or deductible, as the case may be, to the Party entitled under this Agreement to retain such payment or required under this Agreement to make such payment, except as otherwise required by applicable Law.

-14-

---



(b) Any indemnification payment under this Article 6 and under Article IV of the Separation and Distribution Agreement shall be increased to take into account any Taxes resulting from any inclusion in income of the Indemnified Party arising from the receipt of such indemnity payment (including, but not limited to, any additional REIT Taxes resulting therefrom) and shall be decreased to take into account any reduction in Taxes resulting from any reduction in income of the Indemnified Party arising from such indemnified Liability (including, but not limited to, any reduction in REIT Taxes resulting therefrom).

Section 6.04 Timing of Indemnification Payments. Indemnification payments required pursuant to this Article 6 shall be paid by the Indemnifying Party to the Indemnified Party within twenty (20) days of delivery by the Indemnified Party to the Indemnifying Party of an invoice for the amount due, accompanied by evidence of payment and a reasonably satisfactory documentation setting forth the basis for the amount of such indemnification payment.

Section 6.05 Certain Tax Procedures. For the avoidance of doubt, Section 4.11 of the Separation and Distribution Agreement shall apply with respect to any indemnification payments required to be made pursuant to this Agreement.

Section 6.06 Survival of Indemnities. The rights and obligations of each Party under this Article 6 shall survive (a) the sale or other transfer by a Party or any member of its Group of any assets or businesses or the assignment by it of any liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving a Party or any of the members of its Group; it being understood that in any such case, the applicable Party or Group member shall make proper provision so that the successor or acquiror, as applicable, expressly assumes the obligations of such Party or Group member set forth in this Article 6.

## ARTICLE 7.

### REFUNDS AND DEDUCTIONS

#### Section 7.01 Refunds.

(a) RemainCo and RemainCo LLC shall be entitled to all Refunds of Taxes for which RemainCo and RemainCo LLC are or may be responsible pursuant to this Agreement, and SpinCo and the OP shall be entitled to all Refunds of Taxes for which SpinCo and the OP are or may be responsible pursuant to this Agreement. A Party receiving a Refund to which the other Party is entitled pursuant to this Agreement shall pay the amount to which such other Party is entitled within ten (10) days after the receipt of the Refund, less any reasonable costs or expenses or Taxes incurred in procuring such Refund.

(b) In the event of an Adjustment for which one Party (the “Responsible Party”) is or may be responsible pursuant to this Agreement which would have given rise to a Refund but for an offset against the Taxes for which a Party in the other Group (the “Benefited Party”) is or may be liable pursuant to this Agreement, then the Benefited Party shall pay to the Responsible Party, within ten (10) days of the Final Determination of such Adjustment an amount equal to the lesser of (i) the amount of such hypothetical Refund or (ii) the amount of such reduction in the Taxes of the Benefited Party, in each case, solely to the extent the Benefited Party actually realizes the benefit of applying such Refund in cash, and less any reasonable costs or expenses or Taxes incurred in applying such Refund as an offset.

-15-

(c) Notwithstanding Section 7.01(a), to the extent that a Party applies or causes to be applied an overpayment of Taxes as a credit toward or a reduction in Taxes otherwise payable (or a Taxing Authority requires such application in lieu of a Refund) and such overpayment of Taxes, if received as a Refund, would have been payable by such Party to a Party in the other Group pursuant to this Section 7.01, such first Party shall pay such amount to the other Party no later than the Due Date of the Tax Return for which such overpayment is applied to reduce Taxes otherwise payable, in each case solely to the extent the Party applying (or causing to be applied) the overpayment of Taxes actually realizes the benefit of applying such overpayment in cash, and less any reasonable costs or expenses or Taxes incurred in applying such overpayment as a credit toward or reduction in Taxes otherwise payable.

(d) To the extent that the amount of any Refund under this Section 7.01 is later reduced pursuant to an Adjustment, such reduction shall be allocated to the Party to which such Refund was allocated pursuant to this Section 7.01 and an appropriate adjusting payment shall be made.

Section 7.02 Certain Deductions. Except as otherwise required by applicable Law or a Final Determination, (x) RemainCo and RemainCo LLC shall be entitled to any Tax deduction associated with any liabilities for which RemainCo and RemainCo LLC are responsible pursuant to Section 2.3(b)(iii) of the Separation and Distribution Agreement and (y) SpinCo and the OP (and not RemainCo and RemainCo LLC) shall be entitled to any Tax deduction associated with any liabilities for which SpinCo and SpinCo LP are responsible pursuant to Sections 2.3(a)(vi), 2.3(a)(vii) and 2.3(a)(viii) of the Separation and Distribution Agreement.

## ARTICLE 8.

### TAX PROCEEDINGS

Section 8.01 Notification of Tax Proceedings. Within thirty (30) days after an Indemnified Party receives written notice of the commencement of a Tax Proceeding that may give rise to Taxes for which an Indemnifying Party is responsible pursuant to Article 6, such Indemnified Party shall notify the Indemnifying Party of such Tax Proceeding, and thereafter shall promptly forward or make available to the Indemnifying Party copies of notices and communications relating to such Tax Proceeding. The failure of the Indemnified Party to notify the Indemnifying Party of the commencement of any such Tax Proceeding within such thirty (30)-day period or promptly forward any further notices or communications shall not relieve the Indemnifying Party of any obligation which it may have to the Indemnified Party under this Agreement except to the extent that the Indemnifying Party is actually prejudiced by such failure.

-16-

---

#### Section 8.02 Tax Proceedings.

(a) Generally. Except as provided in Section 8.02(c)(i), RemainCo (or such member of the RemainCo Group as RemainCo shall designate) shall have the sole right to control any Tax Proceeding and represent the interests of the members of the RemainCo Group and the members of the SpinCo Group and to employ counsel of its choice at its expense in any Tax Proceeding relating to (i) any Combined Tax Return and (ii) any RemainCo Separate Tax Return (each, a "RemainCo Tax Proceeding"). Except as provided in Section 8.02(c)(ii), SpinCo (or such member of the SpinCo Group as SpinCo shall designate) shall have the sole right to represent the interests of the members of the SpinCo Group and the members of the RemainCo Group and to employ counsel of its choice at its expense in any Tax Proceeding relating to any SpinCo Separate Tax Return (each, a "SpinCo Tax Proceeding").

(b) Power of Attorney. SpinCo shall (and shall cause the members of the SpinCo Group to) execute and deliver to RemainCo (or such member of the RemainCo Group as RemainCo shall designate) any power of attorney or other document requested by RemainCo (or such designee) in connection with any RemainCo Tax Proceeding. RemainCo shall (and shall cause the members of the RemainCo Group to) execute and deliver to SpinCo (or such member of the SpinCo Group as SpinCo shall designate) any power of attorney or other document requested by SpinCo (or such designee) in connection with any SpinCo Tax Proceeding.

#### (c) Participation Rights.

(i) RemainCo Tax Proceedings. In the event of any RemainCo Tax Proceeding the resolution of which could reasonably be expected to give rise to an indemnification obligation of SpinCo and the OP pursuant to Article 6, (A) RemainCo shall consult with SpinCo reasonably in advance of taking any significant action in connection with such Tax Proceeding, (B) RemainCo shall consult with SpinCo and offer SpinCo a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Tax Proceeding, (C) RemainCo shall defend such Tax Proceeding diligently and in good faith as if it were the only party in interest in connection with such Tax Proceeding, and (D) RemainCo shall provide SpinCo copies of any written materials relating to such Tax Proceeding received from the relevant Taxing Authority. Notwithstanding anything in the preceding sentence to the contrary, the final determination of the positions taken, including with respect to settlement or other disposition, in any RemainCo Tax Proceeding which could not reasonably be expected to give rise to an indemnification obligation of SpinCo and the OP pursuant to Article 6 in excess of \$150,000, shall be made in the sole discretion of RemainCo, acting reasonably and in good faith, and shall be final and not subject to the dispute resolution provisions of Section 10.01 (or Article VII of the Separation and Distribution Agreement). With respect to any RemainCo Tax Proceeding which could reasonably be expected to give rise to an indemnification obligation of SpinCo and the OP pursuant to Article 6 in excess of \$150,000, SpinCo shall be entitled to participate in such Tax Proceeding at its own expense, and RemainCo shall not settle, compromise or abandon any such Tax Proceeding without obtaining the prior written consent of SpinCo, which consent shall not be unreasonably withheld, conditioned or delayed.

(ii) SpinCo Tax Proceedings. In the event of any SpinCo Tax Proceeding the resolution of which could reasonably be expected to give rise to an indemnification obligation of RemainCo and RemainCo LLC pursuant to Article 6, (A) SpinCo shall consult with RemainCo reasonably in advance of taking any significant action in connection with such Tax Proceeding, (B) SpinCo shall consult with RemainCo and offer RemainCo a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such Tax Proceeding, (C) SpinCo shall defend such Tax Proceeding diligently and in good faith as if it were the only party in interest in connection with such Tax Proceeding, and (D) SpinCo shall provide RemainCo copies of any written materials relating to such Tax Proceeding received from the relevant Taxing Authority. Notwithstanding anything in the preceding sentence to the contrary, the final determination of the positions taken, including with respect to settlement or other disposition, in any SpinCo Tax Proceeding which could not reasonably be expected to give rise to an indemnification obligation of RemainCo and RemainCo LLC pursuant to Article 6 in excess of \$150,000, shall be made in the sole discretion of SpinCo, acting reasonably and in good faith, and shall be final and not subject to the dispute resolution provisions of Section 10.01 (or Article VII of the Separation and Distribution Agreement). With respect to any SpinCo Tax Proceeding which could reasonably be expected to give rise to an indemnification obligation of RemainCo and RemainCo LLC pursuant to Article 6 in excess of \$150,000, RemainCo shall be entitled to participate in such Tax Proceeding at its own expense, and SpinCo shall not settle, compromise or abandon any such Tax Proceeding without obtaining the prior written consent of RemainCo, which consent shall not be unreasonably withheld, conditioned or delayed.

-17-

---

## ARTICLE 9.

### COOPERATION

#### Section 9.01 General Cooperation.

(a) The Parties shall each cooperate fully (and each shall cause its respective Subsidiaries to cooperate fully) with all reasonable requests in writing from another Party hereto, or from an agent or Representative of such Party, in connection with the preparation and filing of Tax Returns (including the preparation of Tax Packages), claims for Refunds, Tax Proceedings, and calculations of amounts required to be paid pursuant to this Agreement, in each case, related or attributable to or arising in connection with tax reporting requirements or Taxes of any of the Parties or their respective Subsidiaries covered by this Agreement and the establishment of any reserve required in connection with any financial reporting (a "Tax Matter"). Such cooperation shall include the provision of any information reasonably necessary or helpful in connection with a Tax Matter and shall include, without limitation, at each Party's own cost:

(i) the provision of any Tax Returns of the Parties and their respective Subsidiaries, books, records (including information regarding ownership and Tax basis of property), documentation and other information relating to such Tax Returns, including accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities;

(ii) the execution of any document (including any power of attorney) in connection with any Tax Proceedings of any of the Parties or their respective Subsidiaries, or the filing of a Tax Return or a Refund claim of the Parties or any of their respective Subsidiaries;

-18-

---

(iii) the use of the Party's reasonable best efforts to obtain any documentation in connection with a Tax Matter; and

(iv) the use of the Party's reasonable best efforts to obtain any Tax Returns (including accompanying schedules, related work papers, and documents), documents, books, records or other information in connection with the filing of any Tax Returns of any of the Parties or their Subsidiaries.

(b) Each Party shall make its employees, advisors, and facilities available, without charge, on a reasonable and mutually convenient basis in connection with the foregoing matters.

Section 9.02 Retention of Records. RemainCo and SpinCo shall retain or cause to be retained all Tax Returns, schedules and work papers, and all material records or other documents relating thereto in their possession, until sixty (60) days after the expiration of the applicable statute of limitations (including any waivers or extensions thereof) of the taxable periods to which such Tax Returns and other documents relate or until the expiration of any additional period that any Party reasonably requests, in writing, with respect to specific material records or documents. A Party intending to destroy any material records or documents shall provide the other Party with reasonable advance notice and the opportunity to copy or take possession of such records and documents. The Parties hereto will notify each other in writing of any waivers or extensions of the applicable statute of limitations that may affect the period for which the foregoing records or other documents must be retained.

## ARTICLE 10.

### MISCELLANEOUS

#### Section 10.01 Dispute Resolution.

(a) In the event of any dispute between the Parties as to any matter covered by this Agreement (other than any dispute that is required to be resolved by the Accounting Firm pursuant to this Agreement), the Parties shall cooperate in good faith to resolve such dispute and, if the Parties cannot resolve such dispute within thirty (30) days from the time such dispute arises, the Parties shall agree as to whether such dispute shall be governed by the procedures set forth in Section 10.01(b) of this Agreement or in Article VII of the Separation and Distribution Agreement. If the Parties cannot agree within thirty (30) days from the time such dispute arises as to which procedure will govern such dispute, such disagreement shall be resolved pursuant to Article VII of the Separation and Distribution Agreement.

(b) With respect to any dispute governed by this Section 10.01(b), the Parties shall mutually appoint a nationally recognized “Big Four” independent public accounting firm (other than the current auditing firm of either RemainCo or SpinCo) (the “Accounting Firm”) to resolve such dispute. The Parties shall cooperate in good faith in jointly selecting the Accounting Firm. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by RemainCo and SpinCo and their respective Representatives, and not by independent review, and shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Party only. The Parties shall require the Accounting Firm to resolve all disputes no later than fifteen (15) days after the submission of such dispute to the Accounting Firm, but in no event later than the Due Date for the payment of Taxes or the filing of the applicable Tax Return, if applicable and to the extent possible, and agree that all decisions by the Accounting Firm with respect thereto shall be final and conclusive and binding on the Parties. The Accounting Firm shall resolve all disputes in a manner consistent with the terms of this Agreement (including the Intended Tax Treatment) and, to the extent not inconsistent with the terms of this Agreement (including the Intended Tax Treatment) or applicable Law, in a manner consistent with the Past Practices of RemainCo and the OP and the members of the SpinCo Group or RemainCo and its Subsidiaries, as applicable. The Parties shall require the Accounting Firm to render all determinations in writing and to set forth, in reasonable detail, the basis for such determination. The fees and expenses of the Accounting Firm shall be paid by the non-prevailing Party.

-19-

---

Section 10.02 Tax Sharing Agreements. All Tax sharing, indemnification and similar agreements, written or unwritten, as between any member of the RemainCo Group, on the one hand, and any member of the SpinCo Group, on the other hand (other than this Agreement, the Separation and Distribution Agreement, any other Ancillary Agreement, the Merger Agreement, and any agreement entered into after the Distribution), shall be or shall have been terminated no later than the Effective Time and, after the Effective Time, none of the RemainCo Group and the SpinCo Group shall have any further rights or obligations under any such Tax sharing, indemnification or similar agreement.

Section 10.03 Interest on Late Payments. With respect to any payment between the Parties pursuant to this Agreement not made by the due date set forth in this Agreement for such payment (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within forty-five (45) days of such bill, invoice or other demand), the outstanding amount shall accrue interest at a rate per annum equal to the Prime Rate plus two percent (2%).

Section 10.04 Survival. Except as otherwise contemplated by this Agreement, all covenants, representations, warranties and agreements of the Parties contained in this Agreement shall survive the Effective Time and remain in full force and effect in accordance with their applicable terms; provided, however, that all indemnification for Taxes shall survive until sixty (60) days following the expiration of the applicable statute of limitations (taking into account all extensions thereof), if any, for assessment of the Tax that gave rise to the indemnification; provided, further, that, in the event that notice for indemnification has been given within the applicable survival period, such indemnification shall survive until such time as such claim is finally resolved.

Section 10.05 Counterparts; Entire Agreement; Corporate Power.

(a) 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. Each Party acknowledges that it and each other Party is executing this Agreement by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person.

-20-

---

(b) This Agreement, the other Ancillary Agreements, the Separation and Distribution Agreement, the Merger Agreement and the exhibits, schedules and appendices hereto and thereto contain the entire agreement among the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings among the Parties with respect to such subject matter other than those set forth or referred to herein or therein. This Agreement, the other Ancillary Agreements, the Separation and Distribution Agreement and the Merger Agreement together govern the arrangements in connection with the Separation and Distribution and would not have been entered independently. Except as otherwise provided in this Agreement, in the event and to the extent that there shall be a conflict between the provisions of (a) this Agreement and the provisions of the Merger Agreement (excluding the Separation Principles (as defined therein)), at or prior to the Closing (as defined in the Merger Agreement), the Merger Agreement shall control, and following the Closing (as defined in the Merger Agreement), the provisions of this Agreement shall control and (b) this Agreement and the provisions of the Separation and Distribution Agreement (or any other Ancillary Agreement), with respect to matters addressed herein, the provisions of this Agreement shall control.

(c) RemainCo represents on behalf of itself and each other member of the RemainCo Group and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

- (i) each such Person is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization;
- (ii) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and
- (iii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms thereof.

Section 10.06 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and all disputes, causes of action, controversies or claims that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance hereof or thereof, shall be governed by and construed in accordance with the laws of the State of Maryland, without giving effect to any choice or conflict of law provision or rule (whether of the State of Maryland or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Maryland. Subject to Section 10.01, each of the Parties, on behalf of itself and the members of its Group (as applicable) irrevocably agrees that it shall bring any Action in respect of any claim arising out of or related to this Agreement and the rights and obligations arising in connection herewith, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought

by any other Party or its successors or assigns (“Proceedings”), exclusively in (i) the Circuit Court for Baltimore City, Maryland, (ii) in the event (but only in the event) that such court does not have subject matter jurisdiction over such Proceeding, the United States District Court for the District of Maryland, Baltimore Division or (iii) in the event (but only in the event) that such courts identified in clauses (i) and (ii) do not have subject matter jurisdiction over such Proceeding, any other state or federal court located within the State of Maryland (the “Chosen Courts”), and solely in connection with Proceedings (A) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (B) irrevocably waives any claim that it is not personally subject to the jurisdiction of the Chosen Courts for any reason other than the failure to serve in accordance with this Section 10.06 and any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in the Chosen Courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), (C) irrevocably submits to the exclusive venue of any such Proceeding in the Chosen Courts and waives any objection to laying venue in any such Proceeding in the Chosen Courts and (D) waives any objection that the Chosen Courts are an inconvenient forum, do not have jurisdiction over any Party or that this Agreement, or the subject matter hereof, may not be enforced in or by such courts. In the case of any Proceeding in the Circuit Court for Baltimore City, Maryland or any other state court located in the State of Maryland, each of the Parties irrevocably agrees to request and/or consent to the assignment of any such Proceeding to such court’s Business and Technology Case Management Program. Each Party agrees that a final judgment in any Proceeding brought in the Chosen Courts shall be conclusive and binding upon each of the Parties and may be enforced in any other courts the jurisdiction of which each of the Parties is or may be subject, by suit upon such judgment. Each Party irrevocably consents to service of process in the manner provided for notices in Section 10.11 in accordance with applicable Law and agrees that service made in such manner shall have the same legal force and effect as if served upon such Party personally within the State of Maryland. Nothing in this Agreement shall affect the right of any Party to serve process in any other manner permitted by Law.

-21-

---

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (III) IT MAKES SUCH WAIVERS VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.06(b).

-22-

---

Section 10.07 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors (including, for the avoidance of doubt, Badger Merger Sub LLC as successor to RemainCo as a result of the Merger) and permitted assigns; provided, however, that no Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Parties. Any attempt to assign any rights or obligations arising under this Agreement in violation of this Section 10.07 shall be null and void *ab initio*. Notwithstanding the foregoing, no such consent shall be required for the assignment of a Party’s rights and obligations under this Agreement in whole (*i.e.*, the assignment of a Party’s rights and obligations under this Agreement all at the same time) in connection with a change of control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the relevant party thereto by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the other Parties.

Section 10.08 Third-Party Beneficiaries. The provisions of this Agreement are solely for the benefit of the Parties and their respective Groups (as applicable) and are not intended to confer upon any Person except the Parties and their respective Groups (as applicable) any rights or remedies hereunder, and there are no third-party beneficiaries of this Agreement, and this Agreement shall not provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 10.09 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (a) upon personal delivery to the Party to be notified; (b) when sent by email to the Party to be notified (provided that no automated notice of delivery failure is received by the sender); or (c) when delivered by a courier (with confirmation of delivery); in each case, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.09):

If to RemainCo or RemainCo LLC (prior to the Effective Time), to:

Bluerock Residential Growth REIT, Inc.  
1345 Avenue of the Americas, 32nd Floor  
New York, NY 10105  
Attention: Michael Konig  
E-mail: [mkonig@bluerock.com](mailto:mkonig@bluerock.com)

If to RemainCo or RemainCo LLC (from and after the Effective Time), to:

c/o Blackstone Inc.  
345 Park Avenue  
New York, NY 10154  
Attention: Jacob Werner  
Email: [realestatenotices@blackstone.com](mailto:realestatenotices@blackstone.com)  
[Werner@Blackstone.com](mailto:Werner@Blackstone.com)

-23-

---

If to SpinCo or the OP, to:

Bluerock Homes Trust, Inc.  
1345 Avenue of the Americas, 32nd Floor  
New York, NY 10105  
Attention: Jason Emala  
E-mail: [jemala@bluerock.com](mailto:jemala@bluerock.com)

A Party may, by notice to the other Parties, change the address to which such notices are to be given.

Section 10.10 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

Section 10.11 Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such Force Majeure, (a) provide written notice to the other Parties of the nature and extent of any such Force Majeure; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

Section 10.12 No Set-Off. Except as otherwise mutually agreed to in writing by the Parties, no Party or any member of such Party's Group (as applicable) shall have any right of set-off or other similar rights with respect to amounts owed to any other Party or any member of such Party's Group (as applicable) pursuant to this Agreement on account of any obligation owed by such other Party or any member of its Group (as applicable) to the first Party or any member of its Group (as applicable).

Section 10.13 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 10.14 Waivers of Default. Waiver by a Party of any default by another Party of any provision of this Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the waiving Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

-24-

---

Section 10.15 Specific Performance. Subject to the provisions of Section 10.01, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief (on an interim or permanent basis) in respect of its or their rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, may be inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

Section 10.16 Amendments and Consents. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification; provided, that notwithstanding anything to the contrary in this Agreement, prior to the Closing (as defined in the Merger Agreement), any waiver, amendment, supplement or modification of this Agreement, in each case, that is adverse (other than in a *de minimis* respect) to the RemainCo Group or, after giving effect to the consummation of the Merger, Badger Parent, shall require the prior written consent of Badger Parent (not to be unreasonably withheld, delayed or conditioned).

Section 10.17 Interpretation. In this Agreement, (a) definitions are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms; (b) the terms “hereof,” “herein” and “hereunder” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto, as applicable) and not to any particular provision of this Agreement, unless the context otherwise requires; (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules, Exhibits and Appendices) to such agreement; (e) the word “include,” “includes” and “including” when used in this Agreement shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) unless expressly specified in a particular case, the word “days” refers to calendar days; (h) references to “business day” shall mean any day other than a Saturday, a Sunday or any other day on which commercial banks in New York, New York are authorized or required by Law to remain closed; (i) references to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as it may be amended, modified or supplemented from time to time, unless otherwise specified; (j) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; (k) unless expressly stated to the contrary in this Agreement, all references to “the date hereof” or “the date of this Agreement” and words of similar import shall all be references to October 5, 2022; (l) references to “\$” or “dollars” shall be to U.S. dollars; (m) references to “written” or “in writing” include in electronic form; (n) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant thereto unless otherwise defined therein; (o) a reference to any Person includes such Person’s successors and permitted assigns; (p) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a business day, the period shall end on the next succeeding business day; (q) to the extent that any covenant or agreement in this Agreement requires a controlled Affiliate of any Party to take or omit to take any action, such covenant or agreement includes the obligation of such Party to cause such controlled Affiliate to take or omit to take such action, whether or not such covenant or agreement expressly so states; and (r) references in this Agreement to the “transactions contemplated hereby,” the “transactions contemplated by this Agreement” and words or phrases of similar import shall include the Separation or the Distribution and the transactions contemplated thereby.



Section 10.18 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, neither SpinCo or any member of the SpinCo Group (including the OP), on the one hand, nor RemainCo or any member of the RemainCo Group (including RemainCo LLC), on the other hand, shall be liable under this Agreement to the other for any indirect, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated by this Agreement (other than any such damages to the extent awarded to a Third Party with respect to a Third-Party Claim).

Section 10.19 Performance. Badger Parent will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by RemainCo or any other member of the RemainCo Group after the Closing (as defined in the Merger Agreement) and RemainCo will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by any member of the RemainCo Group. SpinCo will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by any member of the SpinCo Group. Each Party (including its permitted successors and assigns) further agrees that it will (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement to all of the other members of its Group (as applicable) and (b) as applicable, cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement or the transactions contemplated hereby.

Section 10.20 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties, and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

Section 10.21 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of Article 6).

Section 10.22 Effective Date. This Agreement shall become effective upon the occurrence of the Distribution.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

BLUEROCK RESIDENTIAL GROWTH REIT, INC.

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: Chief Operating Officer and President

BADGER PARENT LLC

By: /s/ Asim Hamid

---

Name: Asim Hamid  
Title: Senior Managing Director and Vice President

BADGER HOLDCO LLC

By: BLUEROCK RESIDENTIAL HOLDINGS, L.P., its Sole  
Member

By: BLUEROCK RESIDENTIAL GROWTH REIT, INC., its  
General Partner

By: /s/ Jordan B. Ruddy  
Name: Jordan B. Ruddy  
Title: Chief Operating Officer and President

BLUEROCK HOMES TRUST, INC.

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: President

*[Signature Page to Tax Matters Agreement]*

---

BLUEROCK REIT HOLDINGS, LLC

By: BLUEROCK RESIDENTIAL GROWTH REIT, INC., its Sole  
Member

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: Chief Operating Officer and President

BLUEROCK RESIDENTIAL HOLDINGS, L.P.

By: BLUEROCK RESIDENTIAL GROWTH REIT, INC., its  
General Partner

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: Chief Operating Officer and President

*[Signature Page to Tax Matters Agreement]*

---

**MANAGEMENT AGREEMENT**

**among**

**Bluerock Homes Trust, Inc.**

**Bluerock Residential Holdings, L.P.**

**and**

**Bluerock Homes Manager, LLC**

**Dated as of October 5, 2022**

---

MANAGEMENT AGREEMENT, dated as of October 5, 2022, among Bluerock Homes Trust, Inc., a Maryland corporation (“BHM”), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “*Operating Partnership*”) and Bluerock Homes Manager, LLC, a Delaware limited liability company (the “*Manager*”).

WITNESSETH:

WHEREAS, BHM intends to invest in Target Assets (as defined below) and intends to qualify as a real estate investment trust for federal income tax purposes under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the “*Code*”) beginning with its taxable year ending December 31, 2022;

WHEREAS, BHM is the general partner of the Operating Partnership, and BHM intends to conduct substantially all of its business and make all Investments (as defined below) through the Operating Partnership;

WHEREAS, BHM and the Operating Partnership desire to retain the Manager to administer the business activities and day-to-day operations of the Company (as defined below) and to perform services for the Company in the manner and on the terms set forth herein and the Manager wishes to be retained to provide such services, subject to the supervision of the Board (as defined below), on the terms and conditions hereinafter set forth;

WHEREAS, the Manager wishes to be retained to administer such business activities and day-to-day operations and to provide such services;

NOW THEREFORE, in consideration of the premises and agreements hereinafter set forth, the parties hereto hereby agree as follows:

**Section 1. Definitions.**

(a) The following terms shall have the meanings set forth in this Section 1(a):

“*Acquisition Expenses*” means any and all expenses incurred by the Company, the Manager or any of their respective Affiliates in connection with the selection, evaluation, acquisition, origination, making or development of any Investment, whether or not acquired, including, but not limited to, legal fees and expenses, travel and communications expenses, property inspection expenses, third party brokerage or finder’s fees, costs of appraisals, nonrefundable option payments on property not acquired, accounting fees and expenses, title insurance premiums and expenses, survey expenses, closing costs and the costs of performing due diligence.

“*Affiliate*” means (i) any Person directly or indirectly controlling, controlled by, or under common control with such other Person, (ii) any executive officer or general partner of such other Person, (iii) any member of the board of directors or board of managers (or bodies performing similar functions) of such Person, and (iv) any legal entity for which such Person acts as an executive officer or general partner.

“*FFFO*” means adjusted funds from operations, calculated by adjusting FFO by adding back Acquisition Expenses, equity based compensation expenses, and any other non-recurring or non-cash expenses, and subtracting recurring capital expenditures (and, when calculating the Incentive Fee only, further adjusting FFO to include any realized gains or losses on the Company’s real estate investments).

“*Agreed Structure*” has the meaning set forth in Section 10(c) hereof.

“*Agreement*” means this Management Agreement, as amended, supplemented or otherwise modified from time to time.

“*Automatic Renewal Term*” has the meaning set forth in Section 10(a) hereof.

“*Bankruptcy*” means, with respect to any Person, (a) the filing by such Person of a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under Title 11 of the United States Code or any other U.S. federal or state or foreign insolvency law, or such Person’s filing an answer consenting to or acquiescing in any such petition, (b) the making by such Person of any assignment for the benefit of its creditors, (c) the expiration of 60 days after the filing of an involuntary petition under Title 11 of the United States Code, an application for the appointment of a receiver for a material portion of the assets of such Person, or an involuntary petition seeking liquidation, reorganization, arrangement or readjustment of its debts under any other U.S. federal or state or foreign insolvency law; *provided*, that the same shall not have been vacated, set aside or stayed within such 60-day period or (d) the entry against such Person of a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereinafter in effect.

“*Base Management Fee*” means the base management fee in an amount equal to 1.50% of the Company’s New Stockholders’ Equity, per annum, calculated and payable in quarterly installments in arrears in cash.

“*BHM*” has the meaning set forth in the preamble.

“*Board*” means the board of directors of BHM. In every instance herein requiring approval of the Board or referring to policies or directions of the Board, for purposes of this Agreement, the Board shall be deemed to include any duly appointed and constituted committee of the Board with respect to each and every act that under the Governing Instruments or applicable law may be taken with the approval of a duly appointed and constituted committee of the Board, and references herein to the Board shall be deemed to include references to each such committee.

“*Board-Approved Structure*” has the meaning set forth in Section 10(c) hereof.

“*Business Day*” means any day except a Saturday, a Sunday or a day on which banking institutions in New York, New York are not required to be open.

“*C-LTIP Unit*” shall have the definition set forth in the partnership agreement of the Operating Partnership.

“*Cause Termination Notice*” has the meaning set forth in Section 11(a).

“*Claim*” has the meaning set forth in Section 8(d) hereof.

“*Code*” has the meaning set forth in the Recitals.

“*Common Stock Equivalents*” means shares of the Company Common Stock issuable pursuant to outstanding rights, options or warrants to subscribe for, purchase or otherwise acquire shares of Company Common Stock that are in-the-money on such date.

“Company” means, collectively, BHM and the Operating Partnership.

“Company Common Stock” means the Class A Common Stock, par value \$0.01 per share, of BHM.

“Company Entities” means, collectively, BHM, the Operating Partnership and each of their respective subsidiaries.

“Company Indemnified Party” has meaning set forth in Section 8(c) hereof.

“Conduct Policies” has the meaning set forth in Section 2(l) hereof.

“Confidential Information” has the meaning set forth in Section 5(a) hereof.

“Distribution” means the distribution of all of the outstanding shares of Company Common Stock to the holders of common stock of Bluerock Residential Growth REIT, Inc.

“Distribution Date” means the date of the Distribution.

“Effective Termination Date” has the meaning set forth in Section 10(b) hereof, and shall also mean the effective date of termination of this Agreement by any notice given pursuant to Sections 10(d), 11(a) or 11(b) hereof.

“Equity Incentive Plans” means such equity incentive plans as may be adopted by BHM to provide incentive compensation to attract and retain qualified independent directors, executive officers and other key employees, including officers and employees of the Manager and Operating Partnership and their Affiliates and other service providers, including the Manager and its Affiliates.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“FFO” means funds from operations as such term is from time to time defined by the National Association of Real Estate Investment Trusts, as net income, computed in accordance with GAAP, excluding gains (or losses) from sales of property, plus depreciation and amortization of real estate assets, and after adjustments for unconsolidated partnerships and joint ventures. Adjustments for unconsolidated partnerships and joint ventures will be calculated to reflect FFO on the same basis.

“Financing Transaction” means any financing transaction with respect to any Investment involving any of the Company Entities incurring any mortgage or other indebtedness, including the entering into any line of credit, mezzanine financing, preferred equity financing, and any transaction involving the creation of any commercial mortgage-backed security.

“GAAP” means generally accepted accounting principles in effect in the United States on the date such principles are applied.

“Governing Instruments” means, with regard to any entity, the articles of incorporation or certificate of incorporation and bylaws in the case of a corporation, the partnership agreement in the case of a general partnership, the certificate of limited partnership and the partnership agreement in the case of a limited partnership, the certificate of formation and operating agreement in the case of a limited liability company, the trust instrument in the case of a trust, or similar governing documents, in each case as amended from time to time.

“Incentive Fee” means the incentive fee payable to the Manager, which shall be calculated and payable with respect to each calendar quarter (or part thereof that this Agreement is in effect) in arrears, in an amount, not less than zero, equal to the difference between (1) the product of (a) 20% and (b) the difference between (i) the Company’s AFFO for the previous 12-month period and (ii) the product of (A) the product of (x) the weighted average of the price per share of equity securities as derived from the Net Asset Value and the issue price of equity securities issued in future offerings and transactions, multiplied by (y) the weighted average number of all shares of Company Common Stock outstanding on a fully-diluted basis (including any restricted stock units, any restricted shares of Company Common Stock, LTIP Units, and other shares of Company Common Stock underlying awards granted under incentive plans and OP Units) in the previous 12-month period multiplied by (B) 8%, and (2) the sum of any Incentive Fee paid to the Manager with respect to the first three calendar quarters of such previous 12-month period; *provided, however*, that no Incentive Fee is payable

with respect to any calendar quarter unless AFFO is greater than zero for the four most recently completed calendar quarters, or the number of completed calendar quarters since the Distribution Date, whichever is less.

“*Indemnified Party*” has the meaning set forth in Section 8(c) hereof.

“*Independent Director*” means a member of the Board who is “independent” in accordance with BHM’s Governing Instruments and the rules of the Securities Exchange on which the shares of Company Common Stock are listed.

“*Initial Term*” has the meaning set forth in Section 10(a) hereof.

“*Investment*” means any investment by the Company, directly or through a subsidiary, in a Target Asset.

“*Investment Company Act*” means the Investment Company Act of 1940, as amended.

“*Investment Guidelines*” means the investment guidelines approved by the Board, a copy of which is attached hereto as Exhibit A, as the same may be amended, restated, modified, supplemented or waived pursuant to the approval of a majority of the entire Board (which must include a majority of the Independent Directors).

“*Investment Transaction*” means any purchase, acquisition, exchange, sale or disposition, merger or interest exchange that results in the acquisition or disposition of, or other transaction involving, an Investment.

“*Last Appraiser*” has the meaning set forth in Section 6(g) hereof.

“*Losses*” has the meaning set forth in Section 8(b) hereof.

“*LTIP Unit*” shall have the definition set forth in the partnership agreement of the Operating Partnership.

“*Manager*” has the meaning set forth in the Recitals.

“*Manager Change of Control*” means a change in the direct or indirect (i) beneficial ownership of more than fifty percent (50%) of the combined voting power of the Manager’s then outstanding equity interests, or (ii) power to direct or control the management policies of the Manager, whether through the ownership of beneficial equity interests, common directors or officers, by contract or otherwise. Manager Change of Control shall not include (i) public offerings of the equity interests of the Manager, (ii) any of the foregoing changes resulting from a transfer by R. Ramin Kamfar to a trust or other entity created for estate planning purposes primarily for the benefit of R. Ramin Kamfar or his heirs, or (iii) any assignment of this Agreement by the Manager as permitted hereby and in accordance with the terms hereof.

“*Manager Indemnified Party*” has the meaning set forth in Section 8(a) hereof.

“*Manager Permitted Disclosure Parties*” has the meaning set forth in Section 5(a) hereof.

“*Market Rates*” has the meaning set forth in Section 10(b).

“*Merger Agreement*” means the agreement and plan of merger, dated as of December 20, 2021, by and among Bluerock Residential Growth REIT, Inc., Badger Parent LLC and Badger Merger Sub LLC.

“*Net Asset Value*” means the midpoint of the range of net asset values of the Operating Partnership utilized by Duff & Phelps, A Kroll Business operating as Kroll, LLC in its analysis underlying the opinion it delivered to the Bluerock Residential Growth REIT, Inc. board of directors in connection with the execution of the Merger Agreement.

“*New Stockholders’ Equity*” means (1) the sum of (i) the Net Asset Value plus (ii) the net proceeds from the issuance of (or equity value assigned to) equity and equity equivalent securities in any subsequent offering (allocated on a pro rata daily basis for such issuances during the fiscal quarter of any such issuance) plus (iii) retained earnings at the end of the most recently completed calendar

quarter (without taking into account any non-cash equity compensation expense incurred in current or prior periods), less (2) any amount that the Company has paid to repurchase Company Common Stock issued in any subsequent offering. New Stockholders' Equity also excludes (a) any unrealized gains and losses and other non-cash items (including depreciation and amortization) that have impacted stockholders' equity as reported in the Company's financial statements prepared in accordance with GAAP, and (b) one-time events pursuant to changes in GAAP, and certain non-cash items not otherwise described above, in each case after discussions between the Manager and the Independent Directors and approval by a majority of the Independent Directors.

“*Nonrenewal Event*” has the meaning set forth in Section 10(b) hereof.

“*Nonrenewal Notice*” has the meaning set forth in Section 10(b) hereof.

“*Notice of Proposal to Negotiate*” has the meaning set forth in Section 10(c) hereof.

“*NYSE*” means the New York Stock Exchange.

“*NYSE American*” means the New York Stock Exchange American.

“*OP Units*” has the meaning set forth in Section 10(f)(ii) hereof.

“*Person*” means any natural person, corporation, partnership, association, limited liability company, estate, trust, joint venture, any federal, state, county or municipal government or any bureau, department or agency thereof or any other legal entity and any fiduciary acting in such capacity on behalf of the foregoing.

“*Regulation FD*” means Regulation FD as promulgated by the SEC.

“*REIT*” means a “real estate investment trust” as defined under the Code.

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

“*Securities Act*” means the Securities Act of 1933, as amended.

“*Securities Exchange*” means the NYSE, NYSE American, and any other nationally recognized securities exchange.

“*Target Assets*” means the types of assets described under “Business and Properties” in the Company's Registration Statement on Form 10 (No. 001-41322) filed with the SEC, subject to, and including any changes to the Company's Investment Guidelines that may be approved by the Board from time to time.

“*Termination Fee*” means a termination fee equal to three (3.00) times the sum of (i) the Base Management Fee and (ii) the Incentive Fee, in each case, earned by the Manager during the 12-month period immediately preceding such termination, calculated as of the end of the most recently completed fiscal quarter before the date of non-renewal/termination.

“*Valuation Notice*” has the meaning set forth in Section 6(g) hereof.

**(b)** As used herein, accounting terms relating to any Company Entity, if any, not defined in Section 1(a) and accounting terms partly defined in Section 1(a), to the extent not defined, shall have the respective meanings given to them under GAAP. As used herein, “calendar quarters” shall mean the period from January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31 of the applicable year.

**(c)** The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms. The words include, includes and including shall be deemed to be followed by the phrase “without limitation.”

## Section 2. Appointment and Duties of the Manager.

(a) BHM and the Operating Partnership hereby appoint the Manager to manage the investments and day-to-day operations of the Company Entities, subject at all times to the further terms and conditions set forth in this Agreement and to the supervision and direction of, and such further limitations or parameters as may be imposed from time to time by, the Board. The Manager hereby agrees to use its commercially reasonable efforts to perform each of the duties set forth herein, provided that funds are made available by the Company for such purposes as set forth in Section 7 hereof, and further subject to Section 6 hereof. The appointment of the Manager shall be exclusive to the Manager, except to the extent that the Manager elects, in its reasonable discretion, subject to the terms of this Agreement, to cause the duties of the Manager as set forth herein to be provided by third parties.

(b) The Manager, in its capacity as manager of the Investments and the operations of the Company Entities, at all times will be subject to the supervision and direction of the Board and will use commercially reasonable efforts to present to the Company potential investment opportunities and will perform its duties hereunder, including managing the Company’s business affairs in conformity with the Investment Guidelines and other policies that are approved and monitored by the Board. BHM, the Operating Partnership and the Manager hereby acknowledge the recommendation by the Manager and the approval by the Board of the Investment Guidelines, including, but not limited to the Company’s investment strategy in the Target Assets. BHM, the Operating Partnership and the Manager hereby acknowledge and agree that, during the term of this Agreement, any proposed changes to the Company’s investment strategy that would modify or expand the Target Assets shall require a change in, or supplement to, the Investment Guidelines. The Company shall notify the Manager promptly of any amended, restated, supplemented or waived Investment Guidelines, including any modification or revocation of the Manager’s authority set forth in the Investment Guidelines; *provided, however*, that such modification or revocation shall not be applicable to Investment Transactions to which the Manager has committed any Company Entity prior to the date of receipt by the Manager of such notification.

(c) The Manager will be responsible for (1) the selection, purchase, sale and disposition of Investments, (2) the Company’s financing activities, and (3) providing the Company with advisory services. In addition, the Manager will be responsible for the day-to-day operations of the Company Entities (which, for purposes of the Manager’s responsibilities in this Agreement, includes their respective subsidiaries) and will perform (or cause to be performed) such services and activities relating to the Investments and operations of the Company Entities as may be appropriate, which may include, without limitation:

(i) serving as the Company’s consultant with respect to the periodic review of the Investment Guidelines and other parameters for the Company’s Investments, financing activities and operations, any modification to which will be approved by the Board (including a majority of the Independent Directors);

(ii) investigating, analyzing, and selecting possible Investment opportunities and acquiring, financing, retaining, selling, restructuring, exchanging or disposing of Investments consistent with the Investment Guidelines;

(iii) with respect to prospective Investment Transactions and Financing Transactions, conducting negotiations (including negotiation of definitive agreements) on the Company’s behalf with sellers, purchasers, and brokers and, if applicable, their respective agents and representatives;

(iv) effecting any private placement of interest in the Operating Partnership, tenancy-in-common or other interests in Investments as may be approved by the Board;

(v) engaging and supervising, on the Company’s behalf and at the Company’s expense, independent contractors that provide investment banking, securities brokerage, mortgage brokerage, real estate brokerage, other financial services, due diligence services, underwriting review services, legal and accounting services, and all other services (including transfer agent and registrar services) as may be required relating to the Company’s operations and actual or potential Investments, Investment Transactions or Financing Transactions;



(vi) coordinating and managing operations of any joint venture or co-investment interests held by the Company and conducting all matters with the joint venture or co-investment partners;

(vii) providing executive and administrative personnel, office space and office services required in rendering services to the Company;

(viii) administering the day-to-day operations and performing and supervising the performance of such other administrative functions necessary to the Company's management as may be agreed upon by the Manager and the Board, including, without limitation, the collection of revenues and the payment of the Company's debts and obligations and maintenance of appropriate computer services to perform such administrative functions;

(ix) communicating on the Company's behalf with the holders of any of the equity or debt securities of the Company or the Operating Partnership as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders;

(x) counseling the Board and the Company in connection with policy decisions to be made by the Board;

(xi) evaluating and recommending to the Board hedging strategies and engaging in hedging activities on the Company's behalf, consistent with such strategies as so modified from time to time, with BHM's qualification as a REIT and with the Investment Guidelines;

(xii) counseling the Board and the Company regarding the qualification and maintenance of BHM's qualification as a REIT and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and Treasury Regulations thereunder and using commercially reasonable efforts to cause BHM to qualify and continue to qualify for taxation as a REIT;

(xiii) counseling the Company regarding the maintenance of the Company's exemption from the status of an investment company required to register under the Investment Company Act, monitoring compliance with the requirements for maintaining such exemption and using commercially reasonable efforts to cause the Company to maintain such exemption from such status;

(xiv) furnishing reports and statistical and economic research to the Company regarding the Company's activities and services performed for the Company by the Manager, including reports to the Board with respect to potential conflicts of interest involving the Manager or any of its Affiliates;

(xv) monitoring the operating performance of the Company's Investments and providing periodic reports with respect thereto to the Board, including comparative information with respect to such operating performance and budgeted or projected operating results;

(xvi) investing and reinvesting any moneys and securities of the Company (including investing in short-term investments pending investment in other investments, payment of fees, costs and expenses, or payments of dividends or distributions to BHM's stockholders and the Operating Partnership's partners), consistent with BHM's qualification as a REIT, and advising the Company as to its capital structure and capital raising;

(xvii) causing the Company to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting procedures and systems, internal controls and other compliance procedures and testing systems with respect to financial reporting obligations and compliance with the provisions of the Code applicable to REITs and, if applicable, taxable REIT subsidiaries (as defined in Section 856(l) of the Code), and to conduct quarterly compliance reviews with respect thereto;

- (xviii) assisting the Company in qualifying to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;
- (xix) assisting the Company in complying with all regulatory requirements applicable to the Company in respect of the Company's business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents, if any, required under the Exchange Act or the Securities Act, or by the applicable Securities Exchange;
- (xx) assisting the Company in taking all necessary action to enable the Company to make required tax filings and reports, including soliciting stockholders for required information to the extent required by the provisions of the Code applicable to REITs;
- (xxi) handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which the Company may be involved or to which the Company may be subject arising out of the Company's day-to-day operations (other than with the Manager or its Affiliates), subject to such limitations or parameters as may be imposed from time to time by the Board;
- (xxii) using commercially reasonable efforts to cause expenses incurred by the Company or on the Company's behalf to be commercially reasonable or commercially customary and within any budgeted parameters or expense guidelines set by the Board from time to time;
- (xxiii) serving as the Company's consultant with respect to decisions regarding any of its financings, hedging activities, borrowings or joint venture arrangements undertaken by the Company, including (1) assisting the Company in developing criteria for debt and equity financing that is specifically tailored to its investment objectives, and (2) advising the Company with respect to obtaining appropriate financing for its investments;
- (xxiv) arranging marketing materials, advertising, industry group activities (such as conference participations and industry organization memberships) and other promotional efforts designed to promote the Company's business;
- (xxv) performing such other services as may be required from time to time for management and other activities relating to the Company's assets and business as the Board shall reasonably request or the Manager shall deem appropriate under the particular circumstances; and
- (xxvi) using commercially reasonable efforts to cause the Company to comply with all applicable laws.
- (d)** The Manager may retain, for and on behalf, and at the sole cost and expense, of the Company, such services of the persons and firms referred to in Section 7(b) hereof as the Manager deems necessary or advisable in connection with the management and operations of the Company. In performing its duties under this Section 2, the Manager shall be entitled to rely reasonably on qualified experts and professionals (including, without limitation, accountants, legal counsel and other professional service providers) hired by the Manager at the Company's sole cost and expense.
- (e)** The Manager shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with the Investment Guidelines, (ii) would adversely and materially affect the qualification of BHM as a REIT or the Operating Partnership as a partnership under the Code or the Company's status as an entity exempted or excluded from investment company status under the Investment Company Act, or (iii) would conflict with or violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Company or of any exchange on which the securities of the Company may be listed or any applicable Governing Instruments. If the Manager is ordered to take any action by the Board, the Manager shall promptly notify the Board if it is the Manager's judgment that such action would adversely and materially affect such status or conflict with or violate any such law, rule or regulation or Governing Instruments. Notwithstanding the foregoing, neither the Manager nor any of its Affiliates shall be liable to the Company, the Board, or the Company's stockholders or partners, as applicable, for any act or omission by the Manager or any of its Affiliates, except as provided in Section 8 of this Agreement.

**(f)** The Manager shall seek and obtain Board approval of any Investment Transaction that does not meet the Investment Guidelines. Subject to this Section 2(f), the Manager may execute without Board approval any Investment Transaction that fits within the Investment Guidelines, if then permitted by the Investment Guidelines. If any proposed Investment Transaction requires approval by the Independent Directors, the Manager will deliver to the Independent Directors all documents and other information reasonably required by them to evaluate properly the proposed transaction. The Board may, at any time upon the giving of notice to the Manager, modify or revoke the authority set forth in this Section 2(f); *provided, however*, that such modification or revocation shall be effective upon receipt by the Manager and shall not be applicable to Investment Transactions to which the Manager has committed the Company prior to the date of receipt by the Manager of such notification.

**(g)** The Company (including the Board) agrees to take all actions reasonably required to permit and enable the Manager to carry out its duties and obligations under this Agreement, including, without limitation, all steps reasonably necessary to allow the Manager to file any registration statement or other filing required to be made under the Securities Act, Exchange Act, the applicable Securities Exchange's Listed Company Manual, the Code or other applicable law, rule or regulation on behalf of the Company in a timely manner. The Company further agrees to use commercially reasonable efforts to make available to the Manager all resources, information and materials reasonably requested by the Manager to enable the Manager to satisfy its obligations hereunder, including its obligations to deliver financial statements and any other information or reports with respect to the Company.

**(h)** As frequently as the Manager may deem reasonably necessary or advisable, or at the direction of the Board, the Manager shall prepare, or, at the sole cost and expense of the Company, cause to be prepared, any reports and other information relating to any proposed or consummated Investment as may be reasonably requested by the Company.

**(i)** The Manager shall prepare, or, at the sole cost and expense of the Company, cause to be prepared, all reports, financial or otherwise, with respect to the Company reasonably required by the Board in order for the Company Entities to comply with their respective Governing Instruments or as otherwise reasonably requested by the Board, or any other materials required to be filed with any governmental body or agency, and shall prepare, or, at the sole cost and expense of the Company, cause to be prepared, all materials and data necessary to complete such reports and other materials, including, without limitation, an annual audit of BHM's consolidated financial statements by a nationally recognized independent accounting firm.

**(ii)** The Manager shall prepare, or, at the sole cost and expense to the Company, cause to be prepared, regular reports for the Board to enable the Board to review the Company's acquisitions, portfolio composition and characteristics, performance and compliance with the Investment Guidelines and policies approved by the Board.

**(i)** Officers, employees and agents of the Manager and its Affiliates may serve as directors, officers, agents, nominees or signatories for any Company Entity, to the extent permitted by their respective Governing Instruments or by any resolutions duly adopted by the Board, the Operating Partnership or such Company Entity. When executing documents or otherwise acting in such capacities for any Company Entity, such Persons shall indicate in what capacity they are executing on behalf of such Company Entity. Without limiting the foregoing, while this Agreement is in effect, the Manager will provide the Company with a management team, including a president, chief financial officer and secretary, along with appropriate support personnel, to provide the management services to be provided by the Manager to the Company Entities hereunder, who shall devote such of their time to the management of the Company as necessary and appropriate, commensurate with the level of activity of the Company from time to time. For the avoidance of doubt, none of the officers or employees of the Manager or its Affiliates will be dedicated exclusively to the Company.

**(j)** The Manager, at its sole cost and expense, shall at all times during the term of this Agreement maintain reasonable and customary "errors and omissions" insurance coverage and other customary insurance coverage in respect to its obligations and activities under, or pursuant to, this Agreement, naming BHM and the Operating Partnership as additional insureds.

**(k)** The Manager, at its sole cost and expense, shall provide such third party internal audit, compliance and control services as may be required for the Company to comply with applicable law (including the Securities Act and Exchange Act), regulation (including SEC regulations) and the rules and requirements of the applicable Securities Exchange and as otherwise reasonably requested by the Company or the Board from time to time.

**(l)** The Manager acknowledges receipt of BHM's Code of Business Conduct and Ethics and Policy on Insider Trading (the "Conduct Policies") and agrees to require any Persons who provide services to the Company to comply with such Conduct Policies in

the performance of such services hereunder or such comparable policies as shall in substance hold such Persons to at least the standards of conduct set forth in the Conduct Policies.

(m) The Manager, at its sole cost and expense, shall maintain any required registration of the Manager or any Affiliate with the SEC under the Investment Advisers Act of 1940, as amended, or with any state securities authority in any state in which the Manager or its Affiliate is required to be registered as an investment advisor under applicable state securities laws.

### **Section 3. Additional Activities of the Manager; Non-Solicitation; Restrictions.**

(a) Except as provided in the last sentence of this Section 3(a) and/or the Investment Guidelines nothing in this Agreement shall (i) prevent the Manager or any of its Affiliates, officers, directors or employees, from engaging in other businesses or from rendering services of any kind to any other Person or entity, whether or not the investment objectives or policies of any such other Person or entity are similar to those of the Company; *provided, however*, that the Manager shall devote sufficient resources to the Company's business to discharge its obligations to the Company Entities under this Agreement; or (ii) in any way bind or restrict the Manager or any of its Affiliates, officers, directors or employees from buying, selling or trading any securities or commodities for their own accounts or for the account of others for whom the Manager or any of its Affiliates, officers, directors or employees may be acting. While information and recommendations supplied to the Company shall, in the Manager's reasonable and good faith judgment, be appropriate under the circumstances and in light of the investment objectives and policies of the Company, they may be different from the information and recommendations supplied by the Manager or any Affiliate of the Manager to others. The Company shall be entitled to equitable treatment under the circumstances in receiving information, recommendations and any other services, but the Company recognizes that it is not entitled to receive preferential treatment as compared with the treatment given by the Manager or any Affiliate of the Manager to others. The Company shall have the benefit of the Manager's best judgment and effort in rendering services hereunder and, in furtherance of the foregoing, the Manager shall not undertake activities that, in its good faith judgment, will adversely affect the performance of its obligations under this Agreement.

(b) The Manager shall report to the Board any condition or circumstance, existing or anticipated, of which it has knowledge, which creates or could create a conflict of interest between the Manager's obligations to the Company and its obligations to or its interest in any other Person. If the Manager or any of its Affiliates sponsored any other investment program with similar investment objectives to the Company that has investment funds available at the same time as the Company, the Manager shall inform the Board of the method to be applied by the Manager in allocating investment opportunities among the Company and competing investment entities and shall provide regular updates to the Board of the investment opportunities provided by the Manager to competing programs in order for the Board (including the Independent Directors) to evaluate that the Manager is allocating such opportunities in accordance with such method.

### **Section 4. Bank Accounts.**

At the direction of the Board, the Manager may establish and maintain one or more bank accounts in the name of any Company Entity, and may collect and deposit into any such account or accounts, and disburse funds from any such account or accounts, under such terms and conditions as the Board may approve; and the Manager shall from time to time render appropriate accountings of such collections and payments to the Board and, upon request, to the Company's auditors.

### **Section 5. Records; Confidentiality.**

(a) The Manager shall maintain appropriate books of accounts and records relating to services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Company Entities at any time during normal business hours. The Manager shall keep confidential any and all non-public information, written or oral, obtained by it in connection with the services rendered hereunder ("*Confidential Information*") and shall not use Confidential Information except in furtherance of its duties under this Agreement or disclose Confidential Information, in whole or in part, to any Person other than (i) to its Affiliates, officers, directors, employees, agents, representatives or advisors who need to know such Confidential Information for the purpose of rendering services hereunder, (ii) to appraisers, financing sources and others in the ordinary course of the Company's business ((i) and (ii) collectively, "*Manager Permitted Disclosure Parties*"), (iii) in connection with any governmental or regulatory filings of the Company or filings with the NYSE, NYSE American, or other applicable Securities Exchange or market, or disclosure or presentations to Company investors (subject to compliance with Regulation FD), (iv) to governmental officials having jurisdiction over

the Company, (v) as requested by law or legal process to which the Manager or any Person to whom disclosure is permitted hereunder is a party, or (vi) with the consent of the Company. The Manager agrees to inform each of its Manager Permitted Disclosure Parties of the non-public nature of the Confidential Information and to obtain agreement from such Persons to treat such Confidential Information in accordance with the terms hereof.

(b) Nothing herein shall prevent the Manager from disclosing Confidential Information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of, or pursuant to any law or regulation to, any regulatory agency or authority, (iii) to the extent reasonably required in connection with the exercise of any remedy hereunder, or (iv) to its legal counsel or independent auditors; *provided, however* that with respect to clauses (i) and (ii), it is agreed that, so long as not legally prohibited, the Manager will provide the Company with prompt written notice of such order, request or demand so that the Company may seek, at its sole expense, an appropriate protective order and/or waive the Manager's compliance with the provisions of this Agreement. If, failing the entry of a protective order or the receipt of a waiver hereunder, the Manager is required to disclose Confidential Information, the Manager may disclose only that portion of such information that is legally required without liability hereunder; *provided*, that the Manager agrees to exercise its reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded such information.

(c) Notwithstanding anything herein to the contrary, each of the following shall be deemed to be excluded from the provisions of this Section 5: any Confidential Information that (A) is available to the public from a source other than the Manager, (B) is released in writing by the Company to the public (except to the extent exempt under Regulation FD) or to persons who are not under similar obligation of confidentiality to the Company, or (C) is obtained by the Manager from a third party where such disclosure, to the best of the Manager's knowledge, does not constitute a breach by such third party of an obligation of confidence with respect to the Confidential Information disclosed.

(d) The provisions of this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year; *provided* that the parties will maintain trade secrets of the other party identified in writing as trade secrets, and which in fact constitute trade secrets, for a period of no longer than five (5) years thereafter.

## **Section 6. Compensation.**

(a) For the services rendered under this Agreement, the Company shall pay the Base Management Fee and the Incentive Fee to the Manager. The Manager will not receive any compensation for the period prior to the Distribution Date other than expenses incurred and reimbursed pursuant to Section 7 hereof.

(b) The parties acknowledge that the Base Management Fee is intended to compensate the Manager for advisory services and certain general management services rendered under this Agreement.

(c) The Base Management Fee shall be payable in arrears, in quarterly installments commencing with the quarter in which this Agreement is executed. If applicable, the initial and final installments of the Base Management Fee shall be pro-rated based on the number of days during the initial and final quarters, respectively, that this Agreement is in effect. The Base Management Fee shall be promptly delivered to the Company. The Company will be obligated to pay each quarterly installment of the Base Management Fee calculated for that quarter within five (5) Business Days after delivery to the Company of the written statement of the Manager setting forth the computation of the Base Management Fee for such quarter. One half of each quarterly installment of the Base Management Fee will be payable in C-LTIP Units. The remainder of the Base Management Fee shall be payable in cash or C-LTIP Units, at the election of the Board. The number of C-LTIP Units payable as the Base Management Fee to be issued to the Manager will be calculated in accordance with Section 6(f) in the same manner as the number of C-LTIP Units calculated for the Incentive Fee.

(d) The Incentive Fee shall be payable in arrears, in quarterly installments commencing with the quarter in which this Agreement is executed. The Manager shall compute each quarterly installment of the Incentive Fee within forty-five (45) days after the end of the calendar quarter with respect to which such installment is payable. A copy of the computations made by the Manager to calculate such installment shall thereafter promptly be delivered to the Board and, upon such delivery, payment of such installment of the Incentive Fee shown therein shall be due and payable no later than the date which is five (5) Business Days after the date of delivery to the Board of such computations. For purposes of calculating the Incentive Fee during the first 12 months after completion of the Distribution, AFFO will be determined by annualizing the applicable period following completion of the Distribution.

(e) Each quarterly installment of the Incentive Fee shall be allocated and payable as follows:

- (i) fifty percent (50%) of the Incentive Fee will be payable in C-LTIP Units; and
- (ii) the remainder will be payable in cash or in C-LTIP Units, at the election of the Board.

(f) The number of C-LTIP Units payable as the Incentive Fee to be issued to the Manager will be equal to the dollar amount of the portion of the quarterly installment of the Incentive Fee payable in such C-LTIP Units, divided by a value determined as follows:

(i) if the Company Common Stock is traded on a Securities Exchange, the value shall be deemed to be the average of the closing prices of the Company Common Stock on such exchange on the five (5) Business Days prior to the date on which the quarterly installment of the Incentive Fee is paid;

(ii) if the Company Common Stock is not traded on a Securities Exchange but is actively traded over-the-counter, the value shall be deemed to be the average of the closing bids or sales prices, as applicable, on the five (5) Business Days prior to the date on which the quarterly installment of the Incentive Fee is paid; and

(iii) if the Company Common Stock is neither traded on a Securities Exchange nor actively traded over-the-counter, the value shall be the fair market value thereof, as reasonably determined in good faith by the Board (including a majority of the Independent Directors).

(g) If at any time the Manager shall, in connection with a determination of the value of the Company Common Stock made by the Board pursuant to Section 6(f)(iii) hereof, (i) dispute such determination in good faith by more than five percent (5%), and (ii) such dispute cannot be resolved between the Independent Directors and the Manager within ten (10) Business Days after the Manager provides written notice to the Company of such dispute (the “*Valuation Notice*”), then the matter shall be resolved by an independent appraiser of recognized standing selected jointly by the Independent Directors and the Manager within not more than twenty (20) days after the Valuation Notice. In the event the Independent Directors and the Manager cannot agree with respect to such selection within the aforesaid twenty (20) day time-frame, the Independent Directors shall select one such independent appraiser and the Manager shall select one independent appraiser within five (5) Business Days after the expiration of the twenty (20) day period, with one additional such appraiser (the “*Last Appraiser*”) to be selected by the appraisers so designated within five (5) Business Days after their selection. Any valuation decision made by the Last Appraiser shall be deemed final and binding upon the Board and the Manager and shall be delivered to the Manager and the Board within not more than fifteen (15) days after the selection of the Last Appraiser. The expenses of the appraisal shall be paid by the party with the estimate that deviated the furthest from the final valuation decision made by the independent appraisers.

## **Section 7. Expenses of the Company.**

(a) Except as otherwise set forth in Section 7(b)(iv) hereof with respect to the costs of legal, tax, accounting, consulting, auditing and other similar services rendered for the Company as specified therein, which costs shall be the expense of the Company, the Manager shall be responsible for the expenses related to any and all personnel of the Manager and its Affiliates who provide services to the Company Entities pursuant to this Agreement, including, without limitation, salaries, bonus and other wages, payroll taxes and the cost of employee benefit plans of such personnel, and costs of insurance with respect to such personnel; *provided, however*, that the Manager shall not be responsible for any such expenses payable subsequent to the Distribution Date to the extent (and only to such extent) that such expenses were incurred or otherwise attributable to a time period preceding the Distribution Date. For the avoidance of doubt, any Equity Incentive Plan of BHM or the Operating Partnership in which any person referred to above participates shall be excluded from the operation of this Section 7(a) and will thus not be an expense of the Manager.

(b) The Company shall pay (or cause to be paid) all of the costs and expenses of each Company Entity and shall reimburse the Manager or its Affiliates for documented expenses of the Manager and its Affiliates incurred on behalf of any Company Entity that are reasonably necessary for the performance by the Manager of its duties and functions hereunder, which may include the Company’s pro rata portion of rent, telephone, utilities, office furniture, equipment, machinery and other office, internal and overhead expenses of the Manager and its Affiliates required for the Company’s operations, *provided*, that such expenses are in amounts no greater than those

that would be payable to third-party professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis, and excepting only those expenses that are specifically the responsibility of the Manager pursuant to Section 7(a) of this Agreement. Without limiting the generality of the foregoing, it is specifically agreed that the following costs and expenses of the Company Entities shall be paid by the Company and shall not be paid by the Manager or Affiliates of the Manager:

(i) Acquisition Expenses incurred in connection with the selection and acquisition of Investments;

14

---

(ii) general and administrative expenses of the Company Entities;

(iii) expenses incurred in connection with the issuance of securities of the Company, any Financing Transaction and other costs incident to the acquisition, development, redevelopment, construction, repositioning, leasing, disposition and financing of the Investments;

(iv) costs of legal, tax, accounting, consulting, auditing and other similar services rendered for the Company by providers retained by the Manager or, if provided by the Manager's personnel, in amounts which are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis. For the avoidance of doubt, any Equity Incentive Plan of BHM or the Operating Partnership in which any person referred to in Section 7(a) above participates shall be included in the operation of this Section 7(b)(iv);

(v) the compensation and expenses of BHM's directors and the cost of liability insurance to indemnify the Company and its directors and officers;

(vi) costs associated with the establishment and maintenance of any of the Company's credit facilities, other financing arrangements, or other indebtedness of the Company (including commitment fees, accounting fees, legal fees, closing and other similar costs) or any of BHM's securities offerings;

(vii) expenses connected with communications to holders of the securities of any Company Entity and other bookkeeping and clerical work necessary in maintaining relations with holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including, without limitation, all costs of preparing and filing required reports with the SEC, the costs payable by the Company to any transfer agent and registrar in connection with the listing and/or trading of BHM's securities on any exchange, the fees payable by the Company to any such exchange in connection with its listing, costs of preparing, printing and mailing BHM's annual report to its stockholders or the Operating Partnership's partners, as applicable, and proxy materials with respect to any meeting of BHM's stockholders or the Operating Partnership's partners, as applicable;

(viii) costs associated with any computer software or hardware, electronic equipment or purchased information technology services from third-party vendors that is used for the Company Entities;

(ix) expenses incurred by managers, officers, personnel and agents of the Manager for travel on the Company's behalf and other out-of-pocket expenses incurred by managers, officers, personnel and agents of the Manager in connection with the acquisition, development, redevelopment, construction, repositioning, leasing, financing, refinancing, sale or other disposition of an Investment or establishment of any of BHM's securities offerings, or in connection with any Financing Transaction;

(x) costs and expenses incurred with respect to market information systems and publications, research publications and materials, and settlement, clearing and custodial fees and expenses;

(xi) compensation and expenses of BHM's custodian and transfer agent, if any;

(xii) the costs of maintaining compliance with all federal, state and local rules and regulations or any other regulatory agency;

(xiii) all taxes and license fees;

(xiv) all insurance costs incurred in connection with the operation of the Company's business except for the costs attributable to the insurance that the Manager elects to carry for itself and its personnel;

(xv) costs and expenses incurred in contracting with third parties;

---

15

---

(xvi) all other costs and expenses relating to the Company's business and investment operations, including, without limitation, the costs and expenses of acquiring, owning, protecting, maintaining, developing and disposing of Investments, including appraisal, reporting, audit and legal fees;

(xvii) expenses relating to any office(s) or office facilities, including, but not limited to, disaster backup recovery sites and facilities, maintained for any Company Entity or their Investments separate from the office or offices of the Manager;

(xviii) expenses connected with the payments of interest, dividends or distributions in cash or any other form authorized or caused to be made by the Board to or on account of holders of the securities of any Company Entity, including, without limitation, in connection with any dividend reinvestment plan;

(xix) any judgment or settlement of pending or threatened proceedings (whether civil, criminal or otherwise) against any Company Entity, or against any trustee, director, partner, member or officer of such Company Entity in his capacity as such for which any Company Entity is required to indemnify such trustee, director, partner, member or officer pursuant to the applicable Governing Instruments or any agreement or other instrument or by any court or governmental agency; and

(xx) all other expenses actually incurred by the Manager (except as otherwise specified herein) that are reasonably necessary for the performance by the Manager of its duties and functions under this Agreement.

(c) Costs and expenses incurred by the Manager on behalf of the Company shall be reimbursed monthly to the Manager. The Manager shall prepare a written statement in reasonable detail documenting the costs and expenses of the Company and those incurred by the Manager on behalf of the Company during each month and shall deliver such written statement to the Company within thirty (30) days after the end of each month. The Company shall pay all amounts payable to the Manager pursuant to this Section 7(c) within five (5) Business Days after the receipt of the written statement without demand, deduction, offset or delay. Cost and expense reimbursement to the Manager shall be subject to adjustment at the end of each calendar year in connection with the annual audit of the Company. The provisions of this Section 7 shall survive the expiration or earlier termination of this Agreement to the extent such expenses have previously been incurred or are incurred in connection with such expiration or termination.

#### **Section 8. Limits of the Manager's Responsibility.**

(a) The Manager assumes no responsibility under this Agreement other than to render the services called for hereunder in good faith and shall not be responsible for any action of the Board in following or declining to follow any advice or recommendations of the Manager, including as set forth in the Investment Guidelines. The Manager, its officers, members, managers, directors, personnel, Affiliates and any Person providing sub-advisory services to the Manager (each, a "*Manager Indemnified Party*"), will not be liable to any Company Entity or any of the stockholders, partners, members or other holders of equity interests of any Company Entity for any acts or omissions by any Manager Indemnified Party performed in accordance with and pursuant to this Agreement, except by reason of any act or omission on the part of such Manager Indemnified Party constituting bad faith, willful misconduct, gross negligence or reckless disregard of their duties under this Agreement as determined by a final, non-appealable order of a court of competent jurisdiction, or those incurred in connection with the Manager's proper release of the Company's money or other property.

---

16

---

(b) The Company shall, to the full extent lawful, indemnify and hold harmless each Manager Indemnified Party, with respect to all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees) (collectively, "*Losses*") in respect of or arising from any acts or omissions of such Manager Indemnified Party not



constituting bad faith, willful misconduct, gross negligence, reckless disregard of duties of such Manager Indemnified Party, performed in good faith in accordance with and pursuant to this Agreement as determined by a final, non-appealable order of a court of competent jurisdiction, or those incurred in connection with the Manager's proper release of the Company's money or other property. In addition, the Company shall advance funds to a Manager Indemnified Party for legal fees and other costs and expenses incurred as a result of any claim, suit, action or proceeding for which indemnification is being sought pursuant to the terms of this Agreement, *provided*, that such Manager Indemnified Party undertakes to repay the advanced funds to the Company, together with the applicable legal rate of interest thereon, if it shall ultimately be determined that such Manager Indemnified Party is not entitled to be indemnified by the Company as provided herein in connection with such claim, suit, action or proceeding.

(c) The Manager shall, to the full extent lawful, indemnify and hold harmless the Company, its directors and officers, personnel, agents and Affiliates (each, a "*Company Indemnified Party*," and collectively with a Manager Indemnified Party, each an "*Indemnified Party*") with respect to all Losses in respect of or arising from (i) any acts or omissions of the Manager constituting bad faith, willful misconduct, gross negligence or reckless disregard of the duties of the Manager under this Agreement, or (ii) any claims by the Manager's personnel relating to the terms and conditions of their employment by the Manager.

(d) In case any such claim, suit, action or proceeding (a "*Claim*") is brought against any Indemnified Party in respect of which indemnification may be sought by such Indemnified Party pursuant hereto, the Indemnified Party shall give prompt written notice thereof to the indemnifying party, which notice shall include all documents and information in the possession of or under the control of such Indemnified Party reasonably necessary for the evaluation and/or defense of such Claim and shall specifically state that indemnification for such Claim is being sought under this Section 8; *provided, however*, that the failure of the Indemnified Party to so notify the indemnifying party shall not limit or affect such Indemnified Party's rights other than pursuant to this Section 8. Upon receipt of such notice of Claim (together with such documents and information from such Indemnified Party), the indemnifying party shall, at its sole cost and expense, in good faith defend any such Claim with counsel reasonably satisfactory to such Indemnified Party, which counsel may, without limiting the rights of such Indemnified Party pursuant to the next sentence of this Section 8(d), also represent the indemnifying party in such investigation, action or proceeding. In the alternative, such Indemnified Party may elect to conduct the defense of the Claim, if (i) such Indemnified Party reasonably determines that the conduct of its defense by the indemnifying party could be materially prejudicial to its interests, (ii) the indemnifying party refuses to assume such defense (or fails to give written notice to the Indemnified Party within ten (10) days of receipt of a notice of Claim that the indemnifying party assumes such defense), or (iii) the indemnifying party shall have failed, in such Indemnified Party's reasonable judgment, to defend the Claim in good faith. The indemnifying party may settle any Claim against such Indemnified Party without such Indemnified Party's consent, provided (i) such settlement is without any Losses whatsoever to such Indemnified Party, (ii) the settlement does not include or require any admission of liability or culpability by such Indemnified Party and (iii) the indemnifying party obtains an effective written release of liability for such Indemnified Party from the party to the Claim with whom such settlement is being made, which release must be reasonably acceptable to such Indemnified Party, and a dismissal with prejudice with respect to all claims made by the party against such Indemnified Party in connection with such Claim. The applicable Indemnified Party shall reasonably cooperate with the indemnifying party, at the indemnifying party's sole cost and expense, in connection with the defense or settlement of any Claim in accordance with the terms hereof. If such Indemnified Party is entitled pursuant to this Section 8 to elect to defend such Claim by counsel of its own choosing and so elects, then the indemnifying party shall be responsible for any good faith settlement of such Claim entered into by such Indemnified Party. Except as provided in the immediately preceding sentence, no Indemnified Party may pay or settle any Claim and seek reimbursement therefor under this Section 8.

(e) Any Indemnified Party entitled to indemnification hereunder shall seek recovery under any insurance policies by which such Indemnified Party is covered and any Indemnified Party shall obtain the written consent of the indemnifying party prior to entering into any compromise or settlement which would result in an obligation of such indemnifying party to indemnify such Indemnified Party; *provided, however*, that the possibility of recovery under any such insurance policies shall not preclude an Indemnified Party from seeking indemnification pursuant to this Agreement. If such Indemnified Party shall actually recover any amounts under any applicable insurance policies, it shall offset the net proceeds so received against any amounts owed by the indemnifying party by reason of the indemnity provided hereunder or, if all such amounts shall have been paid by the indemnifying party in full prior to the actual receipt of such net insurance proceeds, it shall pay over such proceeds (up to the amount of indemnification paid by the indemnifying party to such Indemnified Party) to the indemnifying party. If the amounts in respect of which indemnification is sought arise out of the conduct of the business and affairs of the Company or any Subsidiary and also of any other Person or entity for which the Indemnified Party hereunder was then acting in a similar capacity, the amount of the indemnification to be provided by the Company may be limited to the Company Parties' proportionate share thereof if so determined by the Company in good faith.

- (f) The provisions of this Section 8 shall survive the expiration or earlier termination of this Agreement.

#### **Section 9. No Joint Venture.**

The parties to this Agreement are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on any of them.

#### **Section 10. Term; Renewal; Nonrenewal Event; Internalization.**

(a) This Agreement shall become effective on the Distribution Date and shall continue in operation, unless terminated in accordance with the terms hereof, until the first anniversary of the Distribution Date (the “*Initial Term*”). After the Initial Term, this Agreement shall be deemed renewed automatically each year for an additional one-year period (an “*Automatic Renewal Term*”) unless the Company or the Manager elects not to renew this Agreement in accordance with Section 10(b) or Section 10(d), respectively, the Company elects to internalize management pursuant to Section 10(f)(i) or this Agreement is earlier terminated in accordance with Section 11.

(b) Notwithstanding any other provision of this Agreement to the contrary, no later than 180 days prior to the expiration of the Initial Term or any Automatic Renewal Term, the Company may deliver written notice to the Manager informing it of the Company’s intention to decline to renew this Agreement (the “*Nonrenewal Notice*”) if a Nonrenewal Event may have occurred. A Nonrenewal Event shall occur upon the affirmative vote of at least two-thirds of the Independent Directors that (1) there has been unsatisfactory performance by the Manager that is materially detrimental to the Company Entities taken as a whole or (2) the Base Management Fee and Incentive Fee payable to the Manager are not, taken as a whole, in accordance with then-current market rates charged by asset management companies rendering services similar to those rendered by the Manager (“*Market Rates*”), subject to Section 10(c), and only after reasonable investigation by the Independent Directors as to the rates charged by similarly situated managers. If a Nonrenewal Event has occurred, the Company shall pay the Manager the Termination Fee before or on the last day of the Initial Term or such Automatic Renewal Term, as the case may be (the “*Effective Termination Date*”). The Company may terminate this Agreement for cause pursuant to Section 11(a) hereof even after a Nonrenewal Notice and, in such case, no Termination Fee shall be payable.

(c) Notwithstanding the provisions of subsection (b) above, if the reason for the Nonrenewal Event specified in the Company’s Nonrenewal Notice is that two-thirds of the Independent Directors have determined that the Base Management Fee and the Incentive Fee payable to the Manager are not, taken as a whole, in accordance with Market Rates, there shall not have occurred a Nonrenewal Event in the event that there is a Board-Approved Structure (as defined below). If the Manager wishes to continue to perform its duties during the Automatic Renewal Term that would commence upon the expiration of the Initial Term or then current Automatic Renewal Term (and to assert that a Nonrenewal Event shall not be deemed to have occurred), the Manager must first deliver to the Company, not less than 120 days prior to the pending Effective Termination Date, written notice (a “*Notice of Proposal to Negotiate*”) of its intention to renegotiate the Base Management Fee and/or the Incentive Fee. Thereupon, the Company and the Manager shall endeavor to negotiate the Base Management Fee and/or the Incentive Fee in good faith. Provided that the Company and the Manager agree to a revised Base Management Fee, Incentive Fee or other compensation structure (the “*Agreed Structure*”) within sixty (60) days following the Company’s receipt of the Notice of Proposal to Negotiate, and at least two-thirds of the Independent Directors agree that the rates to be paid to the Manager pursuant to the Agreed Structure are at or below Market Rates, taken as a whole (a “*Board-Approved Structure*”), the Nonrenewal Notice from the Company shall be deemed of no force and effect, and this Agreement shall continue in full force and effect on the terms stated herein, except for any changes required to effectuate the Board-Approved Structure. The Company and the Manager agree to execute and deliver an amendment to this Agreement setting forth such revisions promptly after the approval of the Board-Approved Structure, with an effective date of what would have been the Effective Termination Date. In the event that the Company and the Manager are unable to agree on an Agreed Structure during such sixty (60) day period, this Agreement shall terminate on the Effective Termination Date and the Company shall be obligated to pay the Manager the Termination Fee upon the Effective Termination Date as a condition of such termination action being effective.

(d) No later than 180 days prior to the expiration of the Initial Term or any Automatic Renewal Term, the Manager may deliver written notice to the Company informing it of the Manager’s intention to decline to renew this Agreement, whereupon this Agreement shall not be renewed and extended and this Agreement shall terminate effective on the anniversary date of this Agreement

next following the delivery of such notice. The Company is not required to pay to the Manager the Termination Fee if the Manager declines to renew this Agreement pursuant to this [Section 10\(d\)](#).

(e) Except as set forth in this [Section 10](#), a nonrenewal of this Agreement pursuant to this [Section 10](#) shall be without any further liability or obligation of either party to the other, except as provided in [Section 5](#), [Section 7](#), [Section 8](#) and [Section 14](#) of this Agreement.

(f)

(i) Notwithstanding any other provision of this Agreement, upon the determination by at least two-thirds of the Independent Directors that, upon an internalization of the Company's management, AFFO per share would be greater than AFFO per share immediately prior to such internalization, the Company may internalize, with consideration upon such internalization being paid by the Company to the Manager (the "*Internalization Consideration*") equal to 2.75 times the sum of the Base Management Fee and Incentive Fee, in each case, earned by the Manager during the 12-month period immediately preceding such internalization, calculated as of the end of the most recently completed fiscal quarter before the date of the internalization.

(ii) If the Company elects to internalize management pursuant to [Section 10\(f\)\(i\)](#), then either the Manager or the Company may further elect to structure such internalization as an acquisition of all of the membership interests in the Manager for which the acquisition consideration shall be equal to the amount of the Internalization Consideration (and no separate Internalization Consideration would be paid), which may be structured as a contribution of the Manager or the Manager's assets to the Operating Partnership in exchange for units of limited partnership interest in the Operating Partnership ("*OP Units*") and/or cash, provided that at least 50% of the value of the Internalization Consideration will be satisfied in OP Units, or other tax-efficient transaction as agreed to by the Manager and the Company. To the extent of an election under this [Section 10\(f\)\(ii\)](#), the parties shall negotiate in good faith to prepare an acquisition agreement and related documents containing customary, standard and commercially reasonable representations, warranties, covenants and indemnities. The consummation of an acquisition of the Manager pursuant to this [Section 10\(f\)\(ii\)](#) shall be subject to the prior approval of (1) a majority of the Independent Directors, and (2) the Company's stockholders as required under Maryland law or the rules of the applicable Securities Exchange.

## **Section 11. Termination for Cause.**

(a) The Company may terminate this Agreement effective upon 30 days' prior written notice of termination from the Company to the Manager (a "*Cause Termination Notice*"), without payment of any Termination Fee, if (i) the Manager, its agents or assignees breaches any material provision of this Agreement and such breach shall continue for a period of 30 days after written notice thereof specifying such breach and requesting that the same be remedied in such 30-day period (or 45 days after written notice of such breach if the Manager takes steps to cure such breach within 30 days of the written notice), (ii) there is the commencement of any proceeding relating to the Manager's Bankruptcy or insolvency, including an order for relief in an involuntary bankruptcy case or the Manager authorizing or filing a voluntary bankruptcy petition, (iii) any Manager Change of Control which a majority of the Independent Directors determines is materially detrimental to the Company Entities taken as a whole, (iv) the Manager is unable to perform its obligations under this Agreement; (v) the dissolution of the Manager, or (vi) the Manager commits fraud against the Company, misappropriates or embezzles funds of the Company, or acts, or fails to act, in a manner constituting gross negligence, or acts in a manner constituting bad faith or willful misconduct, in the performance of its duties under this Agreement; *provided, however*, that if any of the actions or omissions described in this clause (vi) are caused by an employee and/or officer of the Manager or one of its Affiliates and the Manager takes all necessary and appropriate action against such person and cures the damage caused by such actions or omissions within 30 days of the Manager's actual knowledge of its commission or omission, the Company shall not have the right to terminate this Agreement pursuant to this [Section 11\(a\)\(vi\)](#) and any Cause Termination Notice previously given in reliance on this [clause \(vi\)](#) automatically shall be deemed to have been rescinded and nugatory.

(b) The Manager may terminate this Agreement effective upon 60 days' prior written notice of termination to the Company in the event that the Company shall default in the performance of any material term, condition or covenant contained in this Agreement and such default shall continue for a period of 30 days after written notice thereof specifying such default and requesting that the same be remedied in such 30 day period. The Company is required to pay to the Manager the Termination Fee if the termination of this Agreement is made pursuant to this [Section 11\(b\)](#).

(c) The Manager may terminate this Agreement if the Company becomes required to register as an investment company under the Investment Company Act, with such termination deemed to occur immediately before such event, in which case the Company shall not be required to pay the Termination Fee.

## **Section 12. Action Upon Termination.**

From and after the effective date of termination of this Agreement pursuant to Sections 10 or 11 of this Agreement, the Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accruing to the date of termination and, if (x) terminated pursuant to Section 11(b) hereof or (y) not renewed pursuant to (i) Section 10(b) hereof (subject to Section 10(c) hereof), the Termination Fee or (ii) Section 10(f) (subject to Section 10(f)(ii) hereof), the Internalization Consideration. Upon any such termination or nonrenewal, the Manager shall forthwith:

(a) after deducting any accrued compensation and reimbursement for its expenses that have been submitted to the Company prior to the effective date of termination, pay over to each Company Entity all money collected and held for the account of such Company Entity pursuant to this Agreement;

20

---

(b) deliver to the Board a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board with respect to the Company Entities;

(c) deliver to the Board all property and documents of the Company Entities then in the custody of the Manager; and

(d) cooperate with the Company Entities to provide an orderly management transition, including, but not limited to, the transition to a new manager of control of the assets of the Company Entities.

## **Section 13. Assignments.**

(a) *Assignments by the Manager.* This Agreement shall not be assigned by the Manager without the prior written consent of a majority of the Independent Directors, except to an Affiliate of the Manager, in which case such Affiliate shall be bound under this Agreement and by the terms of such assignment in the same manner as the Manager is bound under this Agreement. Notwithstanding the foregoing, the Manager may, without the approval of a majority of the Independent Directors, delegate to one or more of its Affiliates the performance of any of its responsibilities hereunder so long as it remains liable for any such Affiliate's performance. Nothing contained in this Agreement shall preclude any pledge, hypothecation or other transfer of any amounts payable to the Manager under this Agreement.

(b) *Assignments by the Company.* This Agreement shall not be assigned by the Company without the prior written consent of the Manager, except in the case of assignment by the Company to another REIT or other organization which is a successor (by merger, consolidation, purchase of assets, or other transaction) to the Company, in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the Company is bound under this Agreement.

## **Section 14. Release of Money or Other Property Upon Written Request.**

The Manager agrees that any money or other property of the Company Entities held by the Manager shall be held by the Manager as custodian for the Company, and the Manager's records shall be appropriately and clearly marked to reflect the ownership of such money or other property by the Company. Upon the receipt by the Manager of a written request signed by a duly authorized officer of the Company requesting the Manager to release to the Company any money or other property then held by the Manager for the account of the Company under this Agreement, then subject to the Manager's right to offset pursuant to Section 12(a) hereof, the Manager shall release such money or other property to the Company within a reasonable period of time, but in no event later than 60 days following such request. Upon delivery of such money or other property to the Company, the Manager shall not be liable to the Company, the Board, BHM's stockholders or Operating Partnership's partners or any of the directors or equity holders of any subsidiary of the Company for any acts or omissions by the Company in connection with the money or other property released to the Company in accordance with this Section 14. The Company shall indemnify the Manager Indemnified Parties against any and all Losses which arise in connection with the Manager's proper release of such money or other property to the Company in accordance with the terms of this

Section 14. Indemnification pursuant to this provision shall be in addition to any right of the Manager Indemnified Parties to indemnification under Section 8 of this Agreement.

### **Section 15. Representations and Warranties.**

(a) BHM hereby represents and warrants to the Manager as follows:

(i) BHM is duly organized, validly existing and in good standing under the laws of the State of Maryland, has the corporate power and authority and the legal right to own and operate its assets, to lease any property it may operate as lessee and to conduct the business in which it is now engaged and is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except for failures to be so qualified, authorized or licensed that could not in the aggregate have a material adverse effect on the business operations, assets or financial condition of the Company Entities, taken as a whole.

(ii) BHM has the corporate power and authority and the legal right to make, deliver and perform this Agreement and all obligations required hereunder and has taken all necessary corporate action to authorize this Agreement on the terms and conditions hereof and the execution, delivery and performance of this Agreement and all obligations required hereunder. No consent of any other Person, including stockholders and creditors of BHM, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by BHM in connection with this Agreement or the execution, delivery, performance, validity or enforceability of this Agreement and all obligations required hereunder. This Agreement has been, and each instrument or document required hereunder will be, executed and delivered by a duly authorized officer of BHM, and this Agreement constitutes, and each instrument or document required hereunder when executed and delivered hereunder will constitute, the legally valid and binding obligation of BHM enforceable against BHM in accordance with its terms.

(iii) The execution, delivery and performance of this Agreement and the documents or instruments required hereunder will not violate any provision of any existing law or regulation binding on BHM, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on BHM, or the Governing Instruments of, or any securities issued by BHM or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which BHM is a party or by which BHM or any of its assets may be bound, the violation of which would have a material adverse effect on the business operations, assets or financial condition of the Company Entities, taken as a whole, and will not result in, or require, the creation or imposition of any lien or any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

(b) The Operating Partnership hereby represents and warrants to the Manager as follows:

(i) The Operating Partnership is duly organized, validly existing and in good standing under the laws of the State of Delaware, has the limited partnership power and authority and the legal right to own and operate its assets, to lease any property it may operate as lessee and to conduct the business in which it is now engaged and is duly qualified as a foreign limited partnership and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except for failures to be so qualified, authorized or licensed that could not in the aggregate have a material adverse effect on the business operations, assets or financial condition of the Company Entities, taken as a whole.

(ii) The Operating Partnership has the limited partnership power and authority and the legal right to make, deliver and perform this Agreement and all obligations required hereunder and has taken all necessary limited partnership action to authorize this Agreement on the terms and conditions hereof and the execution, delivery and performance of this Agreement and all obligations required hereunder. No consent of any other Person, including partners and creditors of the Operating Partnership, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Operating Partnership in connection with this Agreement or the execution, delivery, performance, validity or enforceability of this Agreement and all obligations required hereunder. This Agreement has been, and each instrument or document required hereunder will be, executed and delivered by a duly authorized officer of the Operating Partnership, and this Agreement constitutes, and each instrument or document required hereunder when executed and delivered hereunder will constitute, the legally valid and binding obligation of the Operating Partnership enforceable against the Operating Partnership in accordance with its terms.

(iii) The execution, delivery and performance of this Agreement and the documents or instruments required hereunder will not violate any provision of any existing law or regulation binding on the Operating Partnership, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Operating Partnership, or the Governing Instruments of, or any securities issued by the Operating Partnership or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Operating Partnership is a party or by which the Operating Partnership or any of its assets may be bound, the violation of which would have a material adverse effect on the business operations, assets or financial condition of the Company Entities, taken as a whole, and will not result in, or require, the creation or imposition of any lien or any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

(c) The Manager hereby represents and warrants to the Company as follows:

(i) The Manager is duly organized, validly existing and in good standing under the laws of the State of Delaware, has the limited liability company power and authority and the legal right to own and operate its assets, to lease the property it operates as lessee and to conduct the business in which it is now engaged and is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except for failures to be so qualified, authorized or licensed that could not in the aggregate have a material adverse effect on the business operations, assets or financial condition of the Manager.

(ii) The Manager has the limited liability company power and authority and the legal right to make, deliver and perform this Agreement and all obligations required hereunder and has taken all necessary limited liability company action to authorize this Agreement on the terms and conditions hereof and the execution, delivery and performance of this Agreement and all obligations required hereunder. No consent of any other Person, including members and creditors of the Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Manager in connection with this Agreement or the execution, delivery, performance, validity or enforceability of this Agreement and all obligations required hereunder. This Agreement has been, and each instrument or document required hereunder will be, executed and delivered by a duly authorized officer of the Manager, and this Agreement constitutes, and each instrument or document required hereunder when executed and delivered hereunder will constitute, the legally valid and binding obligation of the Manager enforceable against the Manager in accordance with its terms.

(iii) The execution, delivery and performance of this Agreement and the documents or instruments required hereunder will not violate any provision of any existing law or regulation binding on the Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Manager, or the Governing Instruments of, or any securities issued by the Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Manager is a party or by which the Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business operations, assets or financial condition of the Manager, and will not result in, or require, the creation or imposition of any lien or any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

## Section 16. Miscellaneous.

(a) *Notices.* All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered against receipt or upon actual receipt of (i) personal delivery, (ii) delivery by reputable overnight courier, (iii) delivery by facsimile transmission with telephonic confirmation or (iv) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below (or to such other address as may be hereafter notified by the respective parties hereto in accordance with this Section 16):

BHM:

Bluerock Homes Trust, Inc.

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attention: Secretary  
Fax: (646) 278-4220

with a copy to:

KVCF, PLC  
1401 E. Cary Street  
Richmond, Virginia 23219  
Attention: Richard P. Cunningham, Jr., Esq.  
Fax: (804) 823-4099

The Operating Partnership:

Bluerock Residential Holdings, L.P.  
C/O Bluerock Homes Trust, Inc.  
1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attention: Secretary  
Fax: (646) 278-4220

with a copy to:

KVCF, PLC  
1401 E. Cary Street  
Richmond, Virginia 23219  
Attention: Richard P. Cunningham, Jr., Esq.  
Fax: (804) 823-4099

The Manager:

Bluerock Homes Manager, LLC  
1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attention: Chief Legal Officer  
Fax: (646) 278-4220

**(b)** *Binding Nature of Agreement; Successors and Assigns; No Third-Party Beneficiaries.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns as provided herein. Except as provided in this Agreement with respect to indemnification of Indemnified Parties hereunder, nothing in this Agreement shall confer any rights upon any Person other than the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

**(c)** *Integration.* This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

**(d)** *Amendments.* This Agreement, nor any terms hereof, may not be amended, supplemented or modified except in an instrument in writing executed by the parties hereto.

**(e)** **GOVERNING LAW.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF THE PARTIES HERETO IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT FOR ANY DISTRICT WITHIN SUCH STATE FOR THE PURPOSE OF ANY ACTION OR JUDGMENT RELATING TO OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, IRREVOCABLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH ACTION OR JUDGMENT IN SUCH COURTS, AND IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR

CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT OR PROCEEDING IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(f) **WAIVER OF JURY TRIAL.** EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND, THEREFORE, EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

(g) *Survival of Representations and Warranties.* All representations and warranties made hereunder, and in any document, certificate or statement delivered pursuant hereto or in connection herewith, shall survive the execution and delivery of this Agreement.

(h) *No Waiver; Cumulative Remedies.* No failure to exercise and no delay in exercising, on the part of a party hereto, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

(i) *Costs and Expenses.* Each party hereto shall bear its own costs and expenses (including the fees and disbursements of counsel and accountants) incurred in connection with the negotiations and preparation of and the closing under this Agreement, and all matter incident thereto.

(j) *Section Headings.* The section and subsection headings in this Agreement are for convenience in reference only and shall not be deemed to alter or affect the interpretation of any provisions hereof.

---

25

(k) *Counterparts.* This Agreement may be executed by the parties to this Agreement on any number of separate counterparts (including by telecopy), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

(l) *Severability.* Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

---

26

IN WITNESS WHEREOF, each of the parties hereto has executed this Management Agreement as of the date first written above.

**Bluerock Homes Trust, Inc.**

By: /s/ Jordan Ruddy

\_\_\_\_\_  
Name: Jordan Ruddy

Title: President



**Bluerock Residential Holdings, L.P.**

By: Bluerock Homes Trust, Inc.,  
its General Partner

By: /s/ Jordan Ruddy

\_\_\_\_\_  
Name: Jordan Ruddy

Title: President

**Bluerock Homes Manager, LLC**

By: Bluerock Real Estate, L.L.C.,  
its Manager

By: /s/ Jordan Ruddy

\_\_\_\_\_  
Name: Jordan Ruddy

Title: Authorized Signatory

27

---

**Exhibit A to Management Agreement**

**BLUEROCK HOMES TRUST, INC.**

**Investment Guidelines**

(Effective October 5, 2022)

1. No investment shall be made that would cause BHM to fail to qualify as a REIT under the Code.
2. No investment shall be made that would cause BHM or the Operating Partnership to be regulated as an investment company under the Investment Company Act.
3. The Company's investments shall be in the Target Assets.
4. Until appropriate investments in the Target Assets are identified, the Manager may invest the proceeds of any offerings of BHM's or the Operating Partnership's securities for cash in interest-bearing, short-term investment-grade investments, subject to the requirements for BHM's qualification as a REIT under the Code.
5. The Manager shall have the authority to approve any Investment Transaction involving an equity investment amount of less than twenty percent (20%) of the Company's New Stockholders' Equity calculated as a static calculation without regard to proration of issuances ("Company Equity") at the time of the Manager's consideration.
6. The approval of the Board shall be required for any Investment Transaction involving an equity investment amount equal to or in excess of twenty percent (20%) of Company Equity at the time of the Board's consideration.

These Investment Guidelines may be amended, restated, modified, supplemented or waived by the Board (which must include a majority of the Independent Directors) without the approval of BHM's stockholders.

28

---

**BLUEROCK HOMES TRUST, INC.**  
**EQUITY INCENTIVE PLAN**  
**FOR INDIVIDUALS**  
**Effective October 6, 2022**

**ARTICLE I**  
**DEFINITIONS**

1.01 **Affiliate**

“Affiliate” means, with respect to any entity, any other entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with, the first entity (including, but not limited to, joint ventures, limited liability companies and partnerships). For this purpose, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”) shall mean ownership, directly or indirectly, of 50% or more of the total combined voting power of all classes of voting securities issued by such entity, or the possession, directly or indirectly, of the power to direct the management and policies of such entity, by contract or otherwise.

1.02 **Agreement**

“Agreement” means a written agreement (including any amendment or supplement thereto) between the Company and a Participant specifying the terms and conditions of a Stock Award, an award of Performance Units, an Incentive Award, an Option, SAR or Other Equity-Based Award (including an LTIP Unit) granted to such Participant.

1.03 **Board**

“Board” means the Board of Directors of the Company.

1.04 **Cause**

“Cause” shall, with respect to any Participant have the meaning specified in the Agreement. In the absence of any definition in the Agreement, “Cause” shall have the same meaning as set forth in an Individual Agreement. Or, if the Participant and the Company or an Affiliate are not parties to an Individual Agreement that defines the term “Cause,” then “Cause” means the Participant’s conviction of, or plea of guilty or *nolo contendere* to, a felony (excluding traffic-related felonies), or any financial crime involving the Company (including, but not limited to, fraud, embezzlement or misappropriation of Company assets) provided that the Board determines to terminate the Participant for Cause within sixty days after the Participant’s conviction or plea. The good faith determination by the Committee of whether the Participant’s Continuous Service was terminated by the Company for “Cause” shall be final and binding for all purposes hereunder.

---

1.05 **Change in Control**

“Change in Control” means and includes each of the following:

(a) The acquisition, either directly or indirectly, by any individual, entity or group (within the meaning of Sections 13(d) and 14(d)(2) of the Exchange Act) of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act), of more than 30% of either (i) the then outstanding shares of Common Stock, taking into account as outstanding for this purpose such shares of Common Stock issuable upon the exercise of options or warrants, the conversion of convertible shares or debt, and the exercise of any similar right to acquire such Common Stock (but excluding any OP Units) (the “Outstanding Company Common Stock”) or (ii) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); *provided, however*, that the following acquisitions shall not constitute a Change in Control (i) any acquisition by the Company or any of its subsidiaries, (ii) any acquisition by a trustee or other fiduciary holding the Company’s securities under an employee benefit plan sponsored or maintained by the Company or any of its Affiliates, (iii) any acquisition by an

underwriter, initial purchaser or placement agent temporarily holding the Company's securities pursuant to an offering of such securities or (iv) any acquisition by an entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of the then Outstanding Company Common Stock.

(b) Individuals who constitute Incumbent Directors at the beginning of any consecutive twelve month period, together with any new Incumbent Directors who become members of the Board during such twelve month period, cease to be a majority of the Board at the end of such twelve month period.

(c) The consummation of a reorganization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company that requires the approval of the Company's stockholders, whether for such transaction or the issuance of securities in the transaction (a "Business Combination"), in each case, unless following such Business Combination:

(i) the individuals and entities who were the beneficial owners of the Outstanding Company Voting Securities immediately prior to such Business Combination, beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or the analogous governing body) of the entity resulting from such Business Combination (the "Successor Entity") (or, if applicable, the ultimate parent entity that directly or indirectly has beneficial ownership of sufficient voting securities to elect a majority of the members of the board of directors (or the analogous governing body) of the Successor Entity (the "Parent Company"));

(ii) no Person (other than any employee benefit plan sponsored or maintained by the Successor Entity or the Parent Company) beneficially owns (within the meaning of Rule 13d-3 under the Exchange Act), directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Successor Entity); and

-2-

---

(iii) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Successor Entity) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination;

(d) The direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its subsidiaries, taken as a whole, to any Person that is not a subsidiary of the Company.

In addition, if a Change in Control (as defined in clauses (a) through (d) above) constitutes a payment event with respect to any Option, SAR, Stock Award, Performance Unit, Incentive Award or Other Equity-Based Award that provides for the deferral of compensation and is subject to Section 409A of the Code, no payment will be made under that award on account of a Change in Control unless the event described in subsection (a), (b), (c) or (d) above, as applicable, constitutes a "change in control event" as defined in Treasury Regulation Section 1.409A-3(i)(5).

#### 1.06 **Code**

"Code" means the Internal Revenue Code of 1986, and any amendments thereto.

#### 1.07 **Committee**

"Committee" means the Compensation Committee of the Board or such other committee of the Board as the Board may from time to time designate. Unless otherwise determined by the Board, the Committee shall consist of two or more members of the Board, at least two of whom are intended to qualify as "non-employee directors" as defined by Rule 16b-3 of the Exchange Act or any successor rule; *provided, however*, that any action taken by the Committee shall be valid and effective, whether or not the members of the Committee at the time of such action are later determined not to have satisfied the foregoing requirements or otherwise provided in any

charter of the Committee. If there is no Compensation Committee and the Board has not designated any other committee, “Committee” means the Board.

1.08 **Common Stock**

“Common Stock” means the Class A or Class C common stock of the Company.

1.09 **Company**

“Company” means Bluerock Homes Trust, Inc., a Maryland corporation.

1.10 **Control Change Date**

“Control Change Date” means the date on which a Change in Control occurs. If a Change in Control occurs on account of a series of transactions, the “Control Change Date” is the date of the last of such transactions on which the Change in Control occurs.

---

-3-

---

1.11 **Corresponding SAR**

“Corresponding SAR” means an SAR that is granted in relation to a particular Option and that can be exercised only upon the surrender to the Company, unexercised, of that portion of the Option to which the SAR relates.

1.12 **Dividend Equivalent Right**

“Dividend Equivalent Right” means the right, subject to the terms and conditions prescribed by the Committee, of a Participant to receive (or have credited) cash, securities or other property in amounts equivalent to the cash, securities or other property dividends declared on shares of Common Stock with respect to specified Performance Units, an Other Equity-Based Award or Incentive Award of units denominated in shares of Common Stock or other Company securities, as determined by the Committee, in its sole discretion. The Committee shall provide that Dividend Equivalent Rights payable with respect to any such award that does not become nonforfeitable solely on the basis of continued employment or service shall be accumulated and distributed only when, and to the extent that, the underlying award is vested or earned. The Committee may provide that Dividend Equivalent Rights (if any) shall be deemed to have been reinvested in additional shares of Common Stock or otherwise reinvested.

1.13 **Effective Date**

“Effective Date” means the Effective Date as set forth in Article XVIII.

1.14 **Entities Plan**

“Entities Plan” means the Bluerock Homes Trust, Inc. Equity Incentive Plan for Entities, effective as of the Effective Date, and as may be amended from time to time.

1.15 **Exchange Act**

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

1.16 **Fair Market Value**

“Fair Market Value” means, on any given date, the reported “closing” price of a share of Common Stock on the New York Stock Exchange for such date or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which a quotation exists. If, on any given date, the Common Stock is not listed for trading on the New York Stock Exchange, then Fair Market Value shall be the “closing” price of a share of Common Stock on such other exchange on which the Common Stock is listed for trading for such date (or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which such quotation exists) or, if the

Common Stock is not listed on any exchange, the amount determined by the Committee using any reasonable method in good faith and in accordance with the regulations under Section 409A of the Code.

-4-

---

1.17 **Good Reason**

“Good Reason” shall, with respect to any Participant have the meaning specified in the Agreement. In the absence of any definition in the Agreement, “Good Reason” shall have the same meaning as set forth in an Individual Agreement and the Participant’s resignation shall be with Good Reason only if the requirements for such resignation set forth in the Individual Agreement are satisfied. Or, if the Participant and the Company or an Affiliate are not parties to an Individual Agreement that defines the term “Good Reason,” then “Good Reason means (a) the assignment to the Participant of duties or responsibilities that are substantially inconsistent with the Participant’s title at the Company or an Affiliate; (b) a material diminution in the Participant’s title, authority or responsibilities (other than changes in authority or responsibility in connection with the employment of a new executive or the promotion of another executive in either case commensurate with the growth of the Company); (c) a material reduction in the Participant’s annual base salary or annual or long-term incentive opportunities; or (d) a relocation (without the Participant’s written consent) of the Participant’s principal place of employment by more than thirty-five miles. A resignation shall not be with Good Reason pursuant to the preceding sentence unless the Participant gives the Company written notice of the grounds that the Participant contends constitute Good Reason, such notice is given within ninety days after the event, act or omission that the Participant contends constitutes Good Reason and the Company fails to cure such event, act or omission within thirty days after receipt of the Participant’s notice.

1.18 **Incentive Award**

“Incentive Award” means an award awarded under Article XI which, subject to the terms and conditions prescribed by the Committee, entitles the Participant to receive a payment from the Company or an Affiliate of the Company.

1.19 **Incumbent Directors**

“Incumbent Directors” means individuals elected to 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 objection to such nomination) and whose election or nomination for election to the Board was approved by a vote of at least two-thirds of the directors serving on the Board at the time of the election or nomination, as applicable, shall be an Incumbent Director. No individual designated to serve as a director by a person who shall have entered into an agreement with the Company to effect a transaction described in Section 1.05(a) or Section 1.05(c) and no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors shall be an Incumbent Director.

1.20 **Individual Agreement**

“Individual Agreement” means an employment, severance, change in control or similar agreement between the Participant and the Company or an Affiliate.

-5-

---

1.21 **Initial Value**

“Initial Value” means, with respect to a Corresponding SAR, the option price per share of the related Option and, with respect to an SAR granted independently of an Option, the price per share of Common Stock as determined by the Committee on the date of grant; *provided, however*, that the price shall not be less than the Fair Market Value on the date of grant (or 110% of the Fair Market Value on the date of grant in the case of a Corresponding SAR that relates to an incentive stock option granted to a Ten Percent Shareholder). Except as provided in Article XII, without the approval of stockholders (a) the Initial Value of an outstanding SAR may not be reduced (by amendment, cancellation and new grant or otherwise) and (b) no payment shall be made in cancellation of an SAR without the approval of stockholders if, on the date of such amendment, cancellation, new grant or payment the Initial Value exceeds Fair Market Value.

1.22 **LTIP Unit**

“LTIP Unit” means an “LTIP Unit” as defined in the Operating Partnership’s partnership agreement. An LTIP Unit granted under this Plan represents the right to receive the benefits, payments or other rights in respect of an LTIP Unit set forth in that partnership agreement, subject to the terms and conditions of the applicable Agreement and that partnership agreement.

1.23 **Manager**

“Manager” means Bluerock Homes Manager, LLC, a Delaware limited liability company.

1.24 **Nonemployee Director**

“Nonemployee Director” means a member of the Board who is not an employee of the Company, an Affiliate of the Company, or the Operating Partnership.

1.25 **Offering**

“Offering” means the initial public offering of Common Stock registered under the Securities Act of 1933, as amended.

1.26 **OP Units**

“OP Units” means units of limited partnership interest of the Operating Partnership.

1.27 **Operating Partnership**

“Operating Partnership” means Bluerock Residential Holdings, L.P., a Delaware limited partnership and the Company’s operating partnership.

1.28 **Option**

“Option” means a stock option that entitles the holder to purchase from the Company a stated number of shares of Common Stock at the price set forth in an Agreement.

1.29 **Other Equity-Based Award**

“Other Equity-Based Award” means any award other than an Incentive Award, an Option, an SAR, a Performance Unit award or a Stock Award which, subject to such terms and conditions as may be prescribed by the Committee, entitles a Participant to receive shares of Common Stock or rights or units valued in whole or in part by reference to, or otherwise based on, shares of Common Stock (including securities convertible into Common Stock) or other equity interests, including LTIP Units.

1.30 **Participant**

“Participant” means an employee or officer of the Company or an Affiliate of the Company, a member of the Board, or an individual who provides services to the Company or an Affiliate of the Company (including an individual who provides services to the Company or an Affiliate of the Company by virtue of employment with, or providing services to, the Operating Partnership, an Affiliate of the Operating Partnership or the Manager), and who satisfies the requirements of Article IV and is selected by the Committee to receive an award of Performance Units or a Stock Award, an Incentive Award, Option, SAR, Other Equity-Based Award or a combination thereof.

1.31 **Performance Award**

“Performance Award” means an Option, SAR, Stock Award, award of Performance Units, Incentive Award or Other Equity-Based Award (including an LTIP Unit) that is not a Time-Based Award.

1.32 **Performance Units**

“Performance Units” means an award, in the amount determined by the Committee, stated with reference to a specified or determinable number of shares of Common Stock, that in accordance with the terms of an Agreement entitles the holder to receive a payment for each specified unit equal to the value of an equal number of shares of Common Stock on the date of payment.

1.33 **Plan**

“Plan” means this Bluerock Homes Trust, Inc. Equity Incentive Plan for Individuals, as set forth herein and as may be further amended from time to time.

1.34 **REIT**

“REIT” means a real estate investment trust within the meaning of Sections 856 through 860 of the Code.

1.35 **SAR**

“SAR” means a stock appreciation right that in accordance with the terms of an Agreement entitles the holder to receive, with respect to each share of Common Stock encompassed by the exercise of the SAR, the excess, if any, of the Fair Market Value at the time of exercise over the Initial Value. References to “SARs” include both Corresponding SARs and SARs granted independently of Options, unless the context requires otherwise.

-7-

---

1.36 **Stock Award**

“Stock Award” means shares of Common Stock awarded to a Participant under Article VIII.

1.37 **Ten Percent Shareholder**

“Ten Percent Shareholder” means any individual owning more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of a “parent corporation” or “subsidiary corporation” (as such terms are defined in Section 424 of the Code) of the Company. An individual shall be considered to own any voting shares owned (directly or indirectly) by or for his or her brothers, sisters, spouse, ancestors or lineal descendants and shall be considered to own proportionately any voting shares owned (directly or indirectly) by or for a corporation, partnership, estate or trust of which such individual is a stockholder, partner or beneficiary.

1.38 **Time-Based Award**

“Time-Based Award” means an Option, SAR, Stock Award, award of Performance Units, Incentive Award or Other Equity-Based Award (including an LTIP Unit) that vests, is earned or becomes exercisable based solely on continued employment or service.

**ARTICLE II  
PURPOSES**

This Plan is intended to assist the Company and its Affiliates in recruiting and retaining employees, trustees and other individuals who provide services to the Company or an Affiliate of the Company with ability and initiative by enabling such persons to participate in the future success of the Company and its Affiliates and to associate their interests with those of the Company and its stockholders. This Plan is intended to permit the grant of both Options qualifying under Section 422 of the Code (“incentive stock options”) and Options not so qualifying, and the grant of SARs, Stock Awards, Performance Units, Incentive Awards and Other Equity-Based Awards in accordance with this Plan and any procedures that may be established by the Committee. No Option that is intended to be an incentive stock option shall be invalid for failure to qualify as an incentive stock option.

**ARTICLE III  
ADMINISTRATION**

This Plan shall be administered by the Committee. The Committee shall have authority to grant SARs, Stock Awards, Performance Units, Incentive Awards, Options and Other Equity-Based Awards upon such terms (not inconsistent with the provisions of this Plan), as the Committee may consider appropriate. Such terms may include conditions (in addition to those contained in this Plan), on the exercisability of all or any part of an Option or SAR or on the transferability or forfeitability of a Stock Award, an award of Performance Units, an Incentive Award or an Other Equity-Based Award. Notwithstanding any such conditions or any provision of the Plan the Committee may, in its discretion, accelerate the time at which any Option or SAR may be exercised, or the time at which a Stock Award or Other Equity-Based Award may become transferable or nonforfeitable or the time at which an Other Equity-Based Award, an Incentive Award or an award of Performance Units may be settled in connection with an involuntary termination of employment or service (including, but not limited to death or disability). Options, SARs, Stock Awards, Performance Units, Incentive Awards and Other Equity-Based Awards (including LTIP Units) for up to five percent of the aggregate number of shares of Common Stock authorized for issuance under the Plan pursuant to Section 5.02 may be granted or awarded by the Committee without regard to the minimum vesting requirements of Sections 6.06, 7.04, 8.02, 9.02, 10.02 and 11.02. In addition, the Committee shall have complete authority to interpret all provisions of this Plan; to prescribe the form of Agreements; to adopt, amend, and rescind rules and regulations pertaining to the administration of this Plan (including rules and regulations that require or allow Participants to defer the payment of benefits under this Plan); and to make all other determinations necessary or advisable for the administration of this Plan.

-8-

---

The Committee's determinations under this Plan (including without limitation, determinations of the individuals to receive awards under this Plan, the form, amount and timing of such awards, the terms and provisions of such awards and the Agreements) need not be uniform and may be made by the Committee selectively among individuals who receive, or are eligible to receive, awards under this Plan, whether or not such persons are similarly situated. The express grant in this Plan of any specific power to the Committee with respect to the administration or interpretation of this Plan shall not be construed as limiting any power or authority of the Committee with respect to the administration or interpretation of this Plan. Any decision made, or action taken, by the Committee in connection with the administration of this Plan shall be final and conclusive. The members of the Committee shall not be liable for any act done in good faith with respect to this Plan or any Agreement, Option, SAR, Incentive Award, Stock Award, Other Equity-Based Award or award of Performance Units. All expenses of administering this Plan shall be borne by the Company.

#### **ARTICLE IV ELIGIBILITY**

Any employee of the Company or an Affiliate of the Company (including a trade or business that becomes an Affiliate of the Company after the adoption of this Plan) and any member of the Board is eligible to participate in this Plan. In addition, any other individual who provides services to the Company or an Affiliate of the Company (including an individual who provides services to the Company or an Affiliate of the Company by virtue of employment with, or providing services to, the Operating Partnership, an Affiliate of the Operating Partnership or the Manager) is eligible to participate in this Plan if the Committee, in its sole reasonable discretion, determines that the participation of such individual is in the best interest of the Company.

#### **ARTICLE V COMMON SHARES SUBJECT TO PLAN**

##### **5.01 Common Shares Issued**

Upon the award of Common Stock pursuant to a Stock Award, an Other Equity-Based Award or in settlement of an Incentive Award or an award of Performance Units, the Company may deliver (and shall deliver if required under an Agreement) to the Participant shares of Common Stock from its authorized but unissued Common Shares. Upon the exercise of any Option or SAR, the Company may deliver, to the Participant (or the Participant's broker if the Participant so directs), shares of Common Stock from its authorized but unissued Common Shares.

-9-

---



## 5.02 **Aggregate and Grant Limits**

(a) The maximum aggregate number of shares of Common Stock that may be issued under this Plan (pursuant to Options, SARs, Stock Awards or Other Equity-Based Awards and the settlement of Incentive Awards and Performance Units granted on or after the Effective Date) together with the number of shares of Common Stock issued under the Entities Plan (pursuant to Options, SARs, Stock Awards or Other Equity-Based Awards and the settlement of Incentive Awards and Performance Units granted under the Entities Plan on or after the Effective Date) is equal to 1,200,000 shares, plus a number of shares of Common Stock equal to the number of LTIP Units granted under the Bluerock Residential Growth REIT, Inc. Amended and Restated 2014 Equity Incentive Plan for Individuals and the Bluerock Residential Growth REIT, Inc. Amended and Restated 2014 Equity Incentive Plan for Entities that are outstanding as of the Effective Date. Other Equity-Based Awards that are LTIP Units shall reduce the maximum aggregate number of Common Shares that may be issued under this Plan and the Entities Plan on a one-for-one basis, i.e., the grant of each LTIP Unit shall be treated as an award of a share of applicable Common Stock.

(b) The maximum number of shares of Common Stock that may be issued under this Plan and the Entities Plan in accordance with Section 5.02(a) shall be subject to adjustment as provided in Article XII.

(c) The maximum number of shares of Common Stock that may be issued upon the exercise of Options that are incentive stock options or Corresponding SARs that are related to incentive stock options shall be determined in accordance with Sections 5.02(a) and 5.02(b).

(d) A Nonemployee Director may not be granted Options, SARs, Stock Awards, Performance Units, Other Equity-Based Awards or Incentive Awards in any calendar year with respect to more than 40,000 shares of Common Stock.

## 5.03 **Reallocation of Shares**

If, on or after the Effective Date, any award or grant under this Plan or the Entities Plan (including LTIP Units and awards or grants made before the Effective Date) expires, is forfeited or is terminated without having been exercised or is paid in cash without a requirement for the delivery of Common Stock, then any shares of Common Stock covered by such lapsed, cancelled, expired, unexercised or cash-settled portion of such award or grant and any forfeited, lapsed, cancelled or expired LTIP Units shall be available for the grant of other Options, SARs, Stock Awards, Other Equity-Based Awards and settlement of Incentive Awards and Performance Units under this Plan or the Entities Plan. Any shares of Common Stock tendered or withheld on or after the Effective Date to satisfy the grant or exercise price or tax withholding obligation pursuant to any award under this Plan or the Entities Plan shall not be available for future grants or awards. If shares of Common Stock are issued in settlement of an SAR granted under this Plan or the Entities Plan, the number of shares of Common Stock available under this Plan and the Entities Plan shall be reduced by the number of shares of Common Stock for which the SAR was exercised rather than the number of shares of Common Stock issued in settlement of the SAR. To the extent permitted by applicable law or the rules of any exchange on which the Common Stock is listed for trading, shares of Common Stock issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by the Company or any Affiliate of the Company shall not reduce the number of shares of Common Stock available for issuance under this Plan and the Entities Plan.

## ARTICLE VI OPTIONS

### 6.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom an Option is to be granted and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards.

### 6.02 **Option Price**

The price per share of Common Stock purchased on the exercise of an Option shall be determined by the Committee on the date of grant, but shall not be less than the Fair Market Value on the date the Option is granted. Notwithstanding the preceding sentence, the price per share of Common Stock purchased on the exercise of any Option that is an incentive stock option granted to an individual who

is a Ten Percent Shareholder on the date such option is granted, shall not be less than one hundred ten percent (110%) of the Fair Market Value on the date the Option is granted. Except as provided in Article XII, without the approval of stockholders (a) the price per share of Common Stock of an outstanding Option may not be reduced (by amendment, cancellation and new grant or otherwise) and (b) no payment shall be made in cancellation of an Option if on the date of such amendment, cancellation, replacement grant or payment the Option Price exceeds Fair Market Value.

#### 6.03 **Maximum Option Period**

The maximum period in which an Option may be exercised shall be determined by the Committee on the date of grant except that no Option shall be exercisable after the expiration of ten years from the date such Option was granted. In the case of an incentive stock option granted to a Participant who is a Ten Percent Shareholder on the date of grant, such Option shall not be exercisable after the expiration of five years from the date of grant. The terms of any Option may provide that it is exercisable for a period less than such maximum period.

#### 6.04 **Transferability**

An Option granted under this Plan may be transferred only in accordance with this Section 6.04. An Option granted under this Plan may be transferred by will or the laws of descent and distribution. To the extent permitted by the Agreement relating to an Option, an Option that is not an incentive stock option may be transferred by a Participant during the Participant's lifetime but only to a member of the Participant's immediate family (child, stepchild, grandchild, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law) or one or more trusts, partnerships or other entities in which such persons have more than 50% of the beneficial interests. The holder of an Option transferred pursuant to this Section 6.04 shall be bound by the same terms and conditions that governed the Option during the period it was held by the Participant. If an Option is transferred (by the Participant or the Participant's transferee), such Option and any Corresponding SAR must be transferred to the same person or persons or entity or entities.

-11-

---

#### 6.05 **Employee Status**

Incentive stock options may only be granted to employees of the Company or its "parent" and "subsidiaries" (as such terms are defined in Section 424 of the Code). For purposes of determining the applicability of Section 422 of the Code (relating to incentive stock options), or in the event that the terms of any Option provide that it may be exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

#### 6.06 **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an Option may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; *provided, however*, that (subject to the provisions of Article III) no Option may become exercisable before the first anniversary of its grant or the date of the Participant's death or disability or as provided in Section 15.01 or Section 15.02. In addition, incentive stock options (granted under this Plan and all plans of the Company and its "parents" and "subsidiaries" (as such terms are defined in Section 424 of the Code)) may not be first exercisable in a calendar year for Common Shares having a Fair Market Value (determined as of the date an Option is granted) exceeding \$100,000. An Option granted under this Plan may be exercised with respect to any number of whole shares of Common Stock less than the full number for which the Option could be exercised. A partial exercise of an Option shall not affect the right to exercise the Option from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares of Common Stock subject to the Option. The exercise of an Option shall result in the termination of any Corresponding SAR to the extent of the number of shares of Common Stock with respect to which the Option is exercised.

#### 6.07 **Payment**

Subject to rules established by the Committee and unless otherwise provided in an Agreement, payment of all or part of the Option price may be made in cash, certified check, by tendering shares of Common Stock, by attestation of ownership of shares of

Common Stock, by a broker-assisted cashless exercise or in such other form or manner acceptable to the Committee. If shares of Common Stock are used to pay all or part of the Option price, the sum of the cash and cash equivalent and the Fair Market Value (determined on the date of exercise) of the Common Stock so surrendered or other consideration paid must not be less than the Option price of the shares for which the Option is being exercised.

6.08 **Stockholder Rights**

No Participant shall have any rights as a stockholder with respect to shares of Common Stock subject to an Option until the date of exercise of such Option.

-12-

---

6.09 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired pursuant to the portion of an Option before the earlier of (i) the first anniversary of the exercise of the such portion of the Option or (ii) the date the Participant is no longer employed by or providing services to the Company, an Affiliate of the Company, or the Operating Partnership. A Participant shall notify the Company of any sale or other disposition of shares of Common Stock acquired pursuant to an Option that was an incentive stock option if such sale or disposition occurs (i) within two years of the grant of an Option or (ii) within one year of the issuance of the Common Stock to the Participant. Such notice shall be in writing and directed to the Secretary of the Company.

**ARTICLE VII**  
**SARS**

7.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom SARs are to be granted and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards. No Participant may be granted Corresponding SARs (under this Plan and all plans of the Company and its “parents” and “subsidiaries” (as such terms are defined in Section 424 of the Code)) that are related to incentive stock options which are first exercisable in any calendar year for shares of Common Stock having an aggregate Fair Market Value (determined as of the date the related Option is granted) that exceeds \$100,000.

7.02 **Maximum SAR Period**

The term of each SAR shall be determined by the Committee on the date of grant, except that no SAR shall have a term of more than ten years from the date of grant. In the case of a Corresponding SAR that is related to an incentive stock option granted to a Participant who is a Ten Percent Shareholder on the date of grant, such Corresponding SAR shall not be exercisable after the expiration of five years from the date of grant. The terms of any SAR may provide that it has a term that is less than such maximum period.

7.03 **Transferability**

An SAR granted under this Plan may be transferred only in accordance with this Section 7.03. An SAR granted under this Plan may be transferred by will or the laws of descent and distribution. To the extent permitted by the Agreement relating to an SAR, an SAR that is not related to an incentive stock option may be transferred by a Participant during the Participant’s lifetime but only to a member of the Participant’s immediate family (child, stepchild, grandchild, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law) or one or more trusts, partnerships or other entities in which such persons have more than 50% of the beneficial interests. The holder of an SAR transferred pursuant to this Section 7.03 shall be bound by the same terms and conditions that governed the SAR during the period it was held by the Participant. If a Corresponding SAR is transferred (by the Participant or the Participant’s transferee), such Corresponding SAR and the related Option must be transferred to the same person or persons or entity or entities.

-13-

---

#### 7.04 **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an SAR may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; *provided, however*, that (subject to the provisions of Article III) no SAR may become exercisable before the first anniversary of its grant or the date of the Participant's death or disability or as provided in Section 15.01 or Section 15.02. In addition, a Corresponding SAR that is related to an incentive stock option may be exercised only to the extent that the related Option is exercisable and only when the Fair Market Value exceeds the option price of the related Option. An SAR granted under this Plan may be exercised with respect to any number of whole shares less than the full number for which the SAR could be exercised. A partial exercise of an SAR shall not affect the right to exercise the SAR from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares of Common Stock subject to the SAR. The exercise of a Corresponding SAR shall result in the termination of the related Option to the extent of the number of shares of Common Stock with respect to which the SAR is exercised.

#### 7.05 **Employee Status**

If the terms of any SAR provide that it may be exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

#### 7.06 **Settlement**

At the Committee's discretion, the amount payable as a result of the exercise of an SAR may be settled in cash, shares of Common Stock, or a combination of cash and Common Stock. No fractional share of Common Stock will be deliverable upon the exercise of an SAR but a cash payment will be made in lieu thereof.

#### 7.07 **Stockholder Rights**

No Participant shall, as a result of receiving an SAR, have any rights as a stockholder of the Company or any Affiliate of the Company until the date that the SAR is exercised and then only to the extent that the SAR is settled by the issuance of Common Stock.

#### 7.08 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired pursuant to the portion of an SAR before the earlier of (i) the first anniversary of the exercise of such portion of the SAR or (ii) the date the Participant is no longer employed by or providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

### ARTICLE VIII STOCK AWARDS

#### 8.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom a Stock Award is to be made and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards.

#### 8.02 **Vesting**

The Committee, on the date of the award, shall prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted for a period of time or subject to such conditions as may be set forth in the Agreement. Subject to the provisions of Article III, the period in which the shares of Common Stock covered by a Stock Award are forfeitable or otherwise restricted shall not end before the first anniversary of the grant of the Stock Award, the date of the Participant's death or disability or as provided in Section 15.01

or Section 15.02. By way of example and not of limitation, the Committee may prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted subject to the attainment of objectives stated with reference to the business of the Company or an Affiliate of the Company or a business unit's attainment of objectives stated with respect to performance criteria established by the Committee.

#### 8.03 **Employee Status**

In the event that the terms of any Stock Award provide that shares may become transferable and nonforfeitable thereunder only after completion of a specified period of employment or continuous service, the Committee may decide in each case to what extent leaves of absence for governmental or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

#### 8.04 **Stockholder Rights**

Unless otherwise specified in accordance with the applicable Agreement, while the shares of Common Stock granted pursuant to the Stock Award may be forfeited or are nontransferable, a Participant will have all rights of a stockholder with respect to a Stock Award, including the right to receive dividends and vote the shares of Common Stock; *provided, however*, that (i) dividends payable on shares of Common Stock subject to a Stock Award that does not become nonforfeitable solely on the basis of continued employment or service shall be accumulated and paid, without interest, when and to the extent that the underlying Stock Award becomes nonforfeitable; (ii) a Participant may not sell, transfer, pledge, exchange, hypothecate, or otherwise dispose of shares of Common Stock granted pursuant to a Stock Award, and (iii) shares of Common Stock granted pursuant to a Stock Award shall be evidenced in such manner as the Committee may deem appropriate, including book-entry registration or issuance of one or more stock certificates and if any certificate is issued in respect of shares of Common Stock granted pursuant to a Stock Award, such certificate shall be registered in the name of the Participant and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Stock Award, substantially in the following form:

---

-15-

---

The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) of the Bluerock Homes Trust, Inc. Equity Incentive Plan for Individuals and an award agreement. Copies of such plan and award agreement are on file at the offices of Bluerock Homes Trust, Inc.

The limitations set forth in the preceding sentence shall not apply after the shares of Common Stock granted under the Stock Award are transferable and are no longer forfeitable.

#### 8.05 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired under the portion of a Stock Award before the earlier of (i) the first anniversary of the date that such portion became nonforfeitable and (ii) the date the Participant is no longer employed by or providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

### **ARTICLE IX PERFORMANCE UNIT AWARDS**

#### 9.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom an award of Performance Units is to be made and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Performance Units.

#### 9.02 **Earning the Award**

The Committee, on the date of the grant of an award, shall prescribe that the Performance Units will be earned, and the Participant will be entitled to receive payment pursuant to the award of Performance Units, only upon the satisfaction of performance

objectives or such other criteria as may be prescribed by the Committee. Subject to the provisions of Article III, the period in which Performance Units will be earned shall not end before the first anniversary of the grant of the Performance Units, the date of the Participant's death or disability or as provided in Section 15.01 or Section 15.02.

9.03 **Payment**

In the discretion of the Committee, the amount payable when an award of Performance Units is earned may be settled in cash, by the issuance of shares of Common Stock, by the grant of an Other Equity-Based Award (including LTIP Units), by the delivery of other securities or property or a combination thereof. A fractional share of Common Stock shall not be deliverable when an award of Performance Units is earned, but a cash payment will be made in lieu thereof. The amount payable when an award of Performance Units is earned shall be paid in a lump sum.

---

-16-

---

9.04 **Stockholder Rights**

A Participant, as a result of receiving an award of Performance Units, shall not have any rights as a stockholder until, and then only to the extent that, the award of Performance Units is earned and settled in shares of Common Stock. After an award of Performance Units is earned and settled in Common Stock, a Participant will have all the rights of a stockholder of the Company.

9.05 **Transferability**

Any rights or restrictions with respect to the ability of the holder of any Performance Unit granted under this Plan to transfer such Performance Unit shall be set forth in the Agreement relating to such grant; *provided, however*, that Performance Units may be transferred by will or the laws of descent and distribution.

9.06 **Employee Status**

In the event that the terms of any Performance Unit award provide that no payment will be made unless the Participant completes a stated period of employment or continued service, the Committee may decide to what extent leaves of absence for government or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

9.07 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock issued in settlement of Performance Units before the earlier of (i) the first anniversary of the date the shares were issued to the Participant or (ii) the date the Participant is no longer employed by or providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

**ARTICLE X  
OTHER EQUITY-BASED AWARDS**

10.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom an Other Equity-Based Award is to be made and will specify the number of shares of Common Stock or other equity interests (including LTIP Units) covered by such awards and the terms and conditions of such awards; *provided, however*, that the grant of LTIP Units must satisfy the requirements of the partnership agreement of the Operating Partnership as in effect on the date of grant. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Other Equity-Based Award.

---

-17-

---

10.02 **Terms and Conditions**

The Committee, at the time an Other Equity-Based Award is made, shall specify the terms and conditions which govern the award. The terms and conditions of an Other Equity-Based Award may prescribe that a Participant's rights in the Other Equity-Based Award shall be forfeitable, nontransferable or otherwise restricted for a period of time or subject to such other conditions as may be determined by the Committee, in its discretion and set forth in the Agreement. Subject to the provisions of Article III, the period in which such award shall be forfeitable, nontransferable or otherwise restricted shall not end before the first anniversary of the grant of the Other Equity-Based Award, the date of the Participant's death or disability or as provided in Section 15.01 or Section 15.02. Other Equity-Based Awards may be granted to Participants, either alone or in addition to other awards granted under this Plan, and Other Equity-Based Awards may be granted in the settlement of other Awards granted under this Plan.

#### 10.03 **Payment or Settlement**

Other Equity-Based Awards valued in whole or in part by reference to, or otherwise based on, Common Stock, shall be payable or settled in shares of Common Stock, cash or a combination of Common Stock and cash, as determined by the Committee in its discretion; *provided, however*, that any shares of Common Stock that are issued on account of the conversion of LTIP Units into shares of Common Stock shall not reduce the number of shares of Common Stock available for issuance under the Plan or the Entities Plan. Other Equity-Based Awards denominated as equity interests other than shares of Common Stock may be paid or settled in shares or units of such equity interests or cash or a combination of both as determined by the Committee in its discretion.

#### 10.04 **Employee Status**

If the terms of any Other Equity-Based Award provides that it may be earned or exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

#### 10.05 **Transferability**

Any rights or restrictions with respect to the ability of the holder of an Other Equity-Based Award (including LTIP Units) granted under this Plan to transfer such Other Equity-Based Award (including LTIP Units) shall be set forth in the Agreement relating to such grant; *provided, however*, that an Other Equity-Based Award (including LTIP Units) may be transferred by will or the laws of descent and distribution.

#### 10.06 **Stockholder Rights**

A Participant, as a result of receiving an Other Equity-Based Award, shall not have any rights as a stockholder until, and then only to the extent that, the Other Equity-Based Award is earned and settled in shares of Common Stock.

#### 10.07 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock or other equity interests (including LTIP Units) covered by an Other Equity-Based Award before the earlier of (i) the first anniversary of the date that such shares or interests become nonforfeitable and (ii) the date the Participant is no longer employed or providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

## ARTICLE XI INCENTIVE AWARDS

#### 11.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each individual to whom an Incentive Award is to be made and will specify the terms and conditions of such award. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Incentive Award.

#### 11.02 **Terms and Conditions**

The Committee, at the time an Incentive Award is made, shall specify the terms and conditions that govern the award. Such terms and conditions may prescribe that the Incentive Award shall be earned only to the extent that the Participant, the Company or an Affiliate of the Company, during a performance period of at least one year, achieves objectives stated with reference to one or more performance measures or criteria prescribed by the Committee. A goal or objective may be expressed on an absolute basis or relative to the performance of one or more similarly situated companies or a published index. When establishing goals and objectives, the Committee may exclude any or all special, unusual, and/or extraordinary items as determined under U.S. generally accepted accounting principles including, without limitation, the charges or costs associated with restructurings of the Company, discontinued operations, other unusual or non-recurring items, and the cumulative effects of accounting changes. The Committee may also adjust the performance goals for any Incentive Award as it deems equitable in recognition of unusual or non-recurring events affecting the Company, changes in applicable tax laws or accounting principles, or such other factors as the Committee may determine. Such terms and conditions also may include other limitations on the payment of Incentive Awards including, by way of example and not of limitation, requirements that the Participant complete a specified period of employment or service with the Company or an Affiliate of the Company or that the Company, an Affiliate of the Company, or the Participant attain stated objectives or goals (in addition to those prescribed in accordance with the preceding sentence) as a prerequisite to payment under an Incentive Award.

#### 11.03 **Transferability**

Any rights or restrictions with respect to the ability of the holder of an Incentive Award granted under this Plan to transfer such Incentive Award shall be set forth in the Agreement relating to such grant; *provided, however*, that an Incentive Award may be transferred by will or the laws of descent and distribution.

#### 11.04 **Employee Status**

If the terms of an Incentive Award provide that a payment will be made thereunder only if the Participant completes a stated period of employment or continued service the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

-19-

---

#### 11.05 **Settlement**

An Incentive Award that is earned shall be settled with a single lump sum payment which may be in cash, shares of Common Stock, an Other Equity-Based Award (including LTIP Units) or a combination thereof, as determined by the Committee.

#### 11.06 **Stockholder Rights**

No Participant shall, as a result of receiving an Incentive Award, have any rights as a stockholder of the Company or an Affiliate of the Company until the date that the Incentive Award is settled and then only to the extent that the Incentive Award is settled by the issuance of shares of Common Stock.

#### 11.07 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock issued in settlement of an Incentive Award until the earlier of (i) the first anniversary of the date the shares were issued to the Participant or (ii) the date the Participant is no longer employed by or providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

### **ARTICLE XII ADJUSTMENT UPON CHANGE IN COMMON SHARES**

The maximum number of shares of Common Stock as to which Options, SARs, Performance Units, Incentive Awards, Stock Awards and Other Equity-Based Awards may be granted under this Plan and the Entities Plan, the grant limitation applicable to Nonemployee Directors and the terms of outstanding Stock Awards, Options, SARs, Incentive Awards, Performance Units and Other



Equity-Based Awards granted under this Plan and the Entities Plan, shall be adjusted as the Board determines is equitably required in the event that (i) the Company (a) effects one or more nonreciprocal transactions between the Company and its shareholders such as a share dividend, extra-ordinary cash dividend, share split-up, subdivision or consolidation of Common Stock that affects the number or kind of shares of Common Stock (or other securities of the Company) or the Fair Market Value (or the value of other Company securities) and causes a change in the Fair Market Value of the shares of Common Stock subject to outstanding awards or (b) engages in a transaction to which Section 424 of the Code applies or (ii) there occurs any other event which, in the judgment of the Board necessitates such action. Any determination made under this Article XII by the Board shall be nondiscretionary, final and conclusive.

The issuance by the Company of any class of Common Stock, or securities convertible into any class of Common Stock, for cash or property, or for labor or services, either upon direct sale or upon the exercise of rights or warrants to subscribe therefor, or upon conversion of Common Stock or obligations of the Company convertible into such Common Stock or other securities, shall not affect, and no adjustment by reason thereof shall be made with respect to, the maximum number of shares of Common Stock as to which Options, SARs, Performance Units, Incentive Awards, Stock Awards and Other Equity-Based Awards may be granted under this Plan and the Entities Plan, the grant limitation applicable to Nonemployee Directors or the terms of outstanding Stock Awards, Incentive Awards, Options, SARs, Performance Units or Other Equity-Based Awards under this Plan and the Entities Plan.

-20-

---

The Committee may make Stock Awards and may grant Options, SARs, Performance Units, Incentive Awards or Other Equity-Based Awards under this Plan and under the Entities Plan in substitution for performance shares, phantom shares, share awards, stock options, share appreciation rights, or similar awards held by an individual who becomes an employee of the Company or an Affiliate of the Company in connection with a transaction described in the first paragraph of this Article XII. Notwithstanding any provision of this Plan and the Entities Plan, the terms of such substituted Stock Awards, SARs, Other Equity-Based Awards, Options or Performance Units granted under this Plan or the Entities Plan shall be as the Committee, in its discretion, determines is appropriate.

### **ARTICLE XIII COMPLIANCE WITH LAW AND APPROVAL OF REGULATORY BODIES**

No Option or SAR shall be exercisable, no Common Stock shall be issued, no certificates for shares of Common Stock shall be delivered, and no payment shall be made under this Plan except in compliance with all applicable federal, state and foreign laws and regulations (including, without limitation, withholding tax requirements), any listing agreement to which the Company is a party, and the rules of all stock exchanges on which the Common Stock may be listed. The Company shall have the right to rely on an opinion of its counsel as to such compliance. Any certificate issued to represent Common Stock when a Stock Award is granted, a Performance Unit, Incentive Award or Other Equity-Based Award is settled or for which an Option or SAR is exercised may bear such legends and statements as the Committee may deem advisable to assure compliance with federal, state and foreign laws and regulations. No Option or SAR shall be exercisable, no Stock Award or Performance Unit shall be granted, no Common Stock shall be issued, no certificate for Common Stock shall be delivered, and no payment shall be made under this Plan until the Company has obtained such consent or approval as the Committee may deem advisable from regulatory bodies having jurisdiction over such matters.

### **ARTICLE XIV GENERAL PROVISIONS**

#### **14.01 Effect on Employment and Service**

Neither the adoption of this Plan, its operation, nor any documents describing or referring to this Plan (or any part thereof), shall confer upon any individual or entity any right to continue in the employ or service of the Company or an Affiliate of the Company or in any way affect any right and power of the Company or an Affiliate of the Company to terminate the employment or service of any individual or entity at any time with or without assigning a reason therefor.

#### **14.02 Unfunded Plan**

This Plan, insofar as it provides for grants, shall be unfunded, and the Company shall not be required to segregate any assets that may at any time be represented by grants under this Plan. Any liability of the Company to any person with respect to any grant under this Plan shall be based solely upon any contractual obligations that may be created pursuant to this Plan. No such obligation of the Company shall be deemed to be secured by any pledge of, or other encumbrance on, any property of the Company.

#### 14.03 **Rules of Construction**

Headings are given to the articles and sections of this Plan solely as a convenience to facilitate reference. The reference to any statute, regulation, or other provision of law shall be construed to refer to any amendment to or successor of such provision of law.

All awards made under this Plan are intended to comply with, or otherwise be exempt from, Section 409A of the Code (“Section 409A”), after giving effect to the exemptions in Treasury Regulation sections 1.409A-1(b)(3) through (b)(12). This Plan and all Agreements shall be administered, interpreted and construed in a manner consistent with Section 409A. Nevertheless, the tax treatment of the benefits provided under this Plan or any Agreement is not warranted or guaranteed. Neither the Company, its Affiliates nor their respective directors or trustees, officers, employees or advisors (other than in his or her individual capacity as a Participant with respect to his or her individual liability for taxes, interest, penalties or other monetary amounts) shall be held liable for any taxes, interest, penalties or other monetary amounts owed by any Participant or any other taxpayer as a result of the Plan or any Agreement. If any provision of this Plan or any Agreement is found not to comply with, or otherwise not be exempt from, the provisions of Section 409A, it shall be modified and given effect, in the sole discretion of the Committee and without requiring the Participant’s consent, in such manner as the Committee determines to be necessary or appropriate to comply with, or effectuate an exemption from, Section 409A. Each payment under an award granted under this Plan shall be treated as a separate identified payment for purposes of Section 409A.

If a payment obligation under an award or an Agreement arises on account of the Participant’s termination of employment and such payment obligation constitutes “deferred compensation” (as defined under Treasury Regulation section 1.409A-1(b)(1), after giving effect to the exemptions in Treasury Regulation sections 1.409A-1(b)(3) through (b)(12)), it shall be payable only after the Participant’s “separation from service” (as defined under Treasury Regulation section 1.409A-1(h)); *provided, however*, that if the Participant is a “specified employee” (as defined under Treasury Regulation section 1.409A-1(i)) then, subject to any permissible acceleration of payment by the Committee under Treasury Regulation Section 1.409A-3(j)(4)(ii) (domestic relations orders), Treasury Regulation Section 1.409A-3(j)(4)(iii) (conflicts of interest) or Treasury Regulation Section 1.409A-3(j)(4)(iv) (payment of employment taxes) any such payment that is scheduled to be paid within six months after such separation from service shall accrue without interest and shall be paid on the first day of the seventh month beginning after the date of the Participant’s separation from service or, if earlier, within fifteen days after the appointment of the personal representative or executor of the Participant’s estate following the Participant’s death.

#### 14.04 **Withholding Taxes**

Each Participant shall be responsible for satisfying any income, employment and other tax withholding obligations attributable to participation in this Plan. Unless otherwise provided by the Agreement, any such withholding tax obligations may be satisfied in cash (including from any cash payable in settlement of an award of Performance Units, SARs or Other Equity-Based Award) or a cash equivalent acceptable to the Committee. Except to the extent prohibited by Treasury Regulation Section 1.409A-3(j), any minimum statutory federal, state, district, city or foreign withholding tax obligations also may be satisfied (a) by surrendering to the Company shares of Common Stock previously acquired by the Participant; (b) by authorizing the Company to withhold or reduce the number of shares of Common Stock otherwise issuable to the Participant upon the exercise of an Option or SAR, the settlement of a Performance Unit award, Incentive Award or an Other Equity-Based Award (if applicable) or the grant or vesting of a Stock Award; or (c) by any other method as may be approved by the Committee. If shares of Common Stock are used to pay all or part of such withholding tax obligation, the Fair Market Value of the Common Stock surrendered, withheld or reduced shall be determined as of the date of surrender, withholding or reduction and the number of shares of Common Stock which may be withheld, surrendered or reduced shall be limited to the number of shares of Common Stock which have a Fair Market Value on the date of withholding, surrender or reduction equal to the aggregate amount of such liabilities based on the minimum statutory withholding rates for tax purposes that are applicable to such supplemental taxable income.

#### 14.05 **REIT Status**

This Plan shall be interpreted and construed in a manner consistent with the Company's status as a REIT. No award shall be granted or awarded, and with respect to any award granted under this Plan, such award shall not vest, be exercisable or be settled (i) to the extent that the grant, vesting, exercise or settlement could cause the Participant or any other person to be in violation of the share ownership limit or any other limitation on ownership or transfer prescribed by the Company's charter, or (ii) if, in the discretion of the Committee, the grant, vesting, exercise or settlement of the award could impair the Company's status as a REIT.

#### 14.06 **Elections Under Section 83(b)**

No Participant may make an election under Section 83(b) of the Code with respect to the grant of any award, the vesting of any award, the settlement of any award or the issuance of Common Stock under the Plan without the consent of the Company, which the Company may grant or withhold in its sole discretion.

#### 14.07 **Return of Awards; Repayment**

Each Option, SAR, Stock Award, Performance Unit Award, Incentive Award and Other Equity-Based Award (including an LTIP Unit) granted under the Plan is subject to the condition that the Company may require that such award be returned, and that any payment made with respect to such award must be repaid, if (a) such action is required under the terms of any Company recoupment or "clawback" policy as in effect on the date that the award was granted or (b) such award or payment made with respect to any award is, or in the future becomes, subject to any law, rule, requirement or regulation which imposes mandatory recoupment or forfeiture, under circumstances set forth in such law, rule, requirement or regulation; *provided, however*, that such clawback shall not be duplicative of any clawback required under clause (a).

-23-

---

### ARTICLE XV CHANGE IN CONTROL

#### 15.01 **Time-Based Awards or Performance Awards Not Assumed**

Each award (including a Time-Based Award or a Performance Award) that is outstanding on a Control Change Date and that is not assumed or replaced with a substitute award in accordance with Section 15.02 shall be fully vested, earned or exercisable as of the Control Change Date, provided that the performance objectives in respect of a Performance Award shall be deemed to be achieved at (unless otherwise agreed in connection with the Change in Control) the greater of (a) the applicable target level and (b) the level of achievement of the performance objectives for the award as determined by the Committee taking into account performance through the latest date preceding the Control Change Date (but not later than the end of the applicable performance period).

The Committee, in its discretion and without the need of a Participant's consent, may provide that a Time-Based Award or a Performance Award that becomes vested, earned or exercisable under this Section 15.01 may be cancelled in exchange for a payment. The payment may be in cash, Common Stock or other securities or consideration received by stockholders in the Change in Control transaction. With respect to each Time-Based Award or Performance Award that becomes vested, earned or exercisable under this Section 15.01, the payment shall be an amount that is substantially equal to (i) the amount by which the price per share received by stockholders in the Change in Control for each share of Common Stock exceeds the option price or Initial Value in the case of an Option and SAR or (ii) for each vested share of Common Stock subject to a Stock Award, Performance Unit or Other Equity-Based Award, the price per share received by stockholders for Common Stock and (iii) the value of the other securities or property in which the Performance Unit or Other Equity-Based Award is denominated and vested. Notwithstanding any contrary provision of this Section 15.01, if the option price or Initial Value exceeds the price per share of Common Stock received by stockholders in the Change in Control transaction, the Option or SAR may be cancelled without any payment to the Participant.

-24-

---

#### 15.02 **Assumption of Time-Based Awards and Performance Awards**

The Committee, in its discretion and without the need of a Participant's consent, may provide that a Performance Award that is outstanding on the Control Change Date shall be assumed by, or a substitute award granted by, the Successor Entity (or, if applicable, the Parent Company) in the Change in Control. Such assumed or substituted award shall be of the same type of award as the original Performance Award being assumed or replaced. The assumed or substituted award shall have a value, as of the Control Change Date, that is substantially equal to the value of the original Performance Award (or the difference between the Fair Market Value and the option price or Initial Value in the case of Options and SARs) as the Committee determines is equitably required. Except as provided in the following sentence, the assumed or substituted award shall have the same vesting terms and conditions as the original Performance Award being assumed or replaced; *provided, however*, that the performance objectives and measures of the original Performance Award being assumed or replaced shall be adjusted as the Committee determines is equitably required. Notwithstanding the preceding sentence, the assumed or substituted award shall be vested, earned or exercisable on the last day of the Participant's employment or service with the Company, the Successor Entity or any Affiliate of the Company or the Successor Entity, with respect to a *pro rata* number of shares or other securities subject to the award based on the extent to which the performance or other objectives are achieved as of the date of the Participant's termination of employment or service with the Company, the Successor Entity or any Affiliate of the Company or the Successor Entity if (i) such employment or service ends (a) on account of an involuntary termination without Cause, (b) if the Participant is party to an employment agreement with the Company, the Successor Entity or any Affiliate of the Company or the Successor Entity that provides for accelerated vesting upon such a termination, by reason of a termination due to a non-renewal of the term of the employment agreement by such employer but only if the Participant is willing and able to continue performing services on the terms and conditions that would have applied under the employment agreement but for the non-renewal, (c) on account of the Participant's resignation for Good Reason or (d) on account of the Participant's death or disability and (ii) the Participant remained in the continuous employ or service of the Company, the Successor Entity or an Affiliate of the Company or the Successor Entity from the Control Change Date until the date of such termination of employment or service. The pro ration shall be based on a fraction, the numerator of which is the number of days in the applicable performance period that have elapsed as of the date of termination of employment or service and the denominator of which is the total number of days in the applicable performance period. Any portion of a Performance Award that does not become vested, earned or exercisable as of the date of termination of employment or service shall be forfeited as of the date of such termination.

The Committee, in its discretion and without the need of a Participant's consent, may provide that a Time-Based Award that is outstanding on the Control Change Date shall be assumed by, or a substitute award granted by, the Successor Entity (or, if applicable, the Parent Company) in the Change in Control. Such assumed or substituted award shall be of the same type of award as the original Time-Based Award being assumed or replaced. The assumed or substituted award shall have a value, as of the Control Change Date, that is substantially equal to the value of the original Time-Based Award (or the difference between the Fair Market Value and the option price or Initial Value in the case of Options and SARs) as the Committee determines is equitably required. Except as provided in the following sentence, the assumed or substituted award shall have the same vesting terms and conditions as the original Time-Based Award being assumed or replaced. Notwithstanding the preceding sentence, the assumed or substituted award shall be fully vested, earned or exercisable on the last day of the Participant's employment or service with the Company, the Successor Entity or any Affiliate of the Company or the Successor Entity if (i) such employment or service ends (a) on account of an involuntary termination without Cause, (b) following non-renewal of the employment agreement, if any, between the Participant and the Company, the Successor Entity or any Affiliate of the Company or the Successor Entity, (c) on account of the Participant's resignation for Good Reason or (d) on account of the Participant's death or disability and (ii) the Participant remained in the continuous employ or service of the Company, the Successor Entity or an Affiliate of the Company or the Successor Entity from the Control Change Date until the date of such termination of employment or service.

### 15.03 **Limitation of Benefits**

The benefits that a Participant may be entitled to receive under this Plan and other benefits that a Participant is entitled to receive under other plans, agreements and arrangements (which, together with the benefits provided under this Plan, are referred to as "Payments"), may constitute Parachute Payments that are subject to Code Sections 280G and 4999. As provided in this Section 15.03, the Parachute Payments will be reduced pursuant to this Section 15.03 if, and only to the extent that, a reduction will allow a Participant to receive a greater Net After Tax Amount than a Participant would receive absent a reduction.

The Accounting Firm will first determine the amount of any Parachute Payments that are payable to a Participant. The Accounting Firm also will determine the Net After Tax Amount attributable to the Participant's total Parachute Payments.

The Accounting Firm will next determine the largest amount of Payments that may be made to the Participant without subjecting the Participant to tax under Code Section 4999 (the “Capped Payments”). Thereafter, the Accounting Firm will determine the Net After Tax Amount attributable to the Capped Payments.

The Participant will receive the total Parachute Payments or the Capped Payments, whichever provides the Participant with the higher Net After Tax Amount. If the Participant will receive the Capped Payments, the total Parachute Payments will be adjusted by first reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are not subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) and then by reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) in a manner that results in the best economic benefit to the Participant (or, to the extent economically equivalent, in a pro rata manner). The Accounting Firm will notify the Participant and the Company if it determines that the Parachute Payments must be reduced to the Capped Payments and will send the Participant and the Company a copy of its detailed calculations supporting that determination.

As a result of the uncertainty in the application of Code Sections 280G and 4999 at the time that the Accounting Firm makes its determinations under this Article XV, it is possible that amounts will have been paid or distributed to the Participant that should not have been paid or distributed under this Section 15.03 (“Overpayments”), or that additional amounts should be paid or distributed to the Participant under this Section 15.03 (“Underpayments”). If the Accounting Firm determines, based on either the assertion of a deficiency by the Internal Revenue Service against the Company or the Participant, which assertion the Accounting Firm believes has a high probability of success or controlling precedent or substantial authority, that an Overpayment has been made, the Participant must repay the Overpayment to the Company, without interest; *provided, however*, that no amount will be payable by the Participant to the Company unless, and then only to the extent that, the repayment would either reduce the amount on which the Participant is subject to tax under Code Section 4999 or generate a refund of tax imposed under Code Section 4999. If the Accounting Firm determines, based upon controlling precedent or substantial authority, that an Underpayment has occurred, the Accounting Firm will notify the Participant and the Company of that determination and the amount of that Underpayment will be paid, without interest, to the Participant promptly by the Company.

---

-26-

---

For purposes of this Section 15.03, the term “Accounting Firm” means the independent accounting firm engaged by the Company immediately before the Control Change Date. For purposes of this Article XV, the term “Net After Tax Amount” means the amount of any Parachute Payments or Capped Payments, as applicable, net of taxes imposed under Code Sections 1, 3101(b) and 4999 and any State or local income taxes applicable to the Participant on the date of payment. The determination of the Net After Tax Amount shall be made using the highest combined effective rate imposed by the foregoing taxes on income of the same character as the Parachute Payments or Capped Payments, as applicable, in effect on the date of payment. For purposes of this Section 15.03, the term “Parachute Payment” means a payment that is described in Code Section 280G(b)(2), determined in accordance with Code Section 280G and the regulations promulgated or proposed thereunder.

Notwithstanding any other provision of this Section 15.03, this Section 15.03 shall not limit or otherwise supersede the provisions of any other agreement or plan which provides that a Participant cannot receive Payments in excess of the Capped Payments.

## **ARTICLE XVI AMENDMENT**

The Board may amend or terminate this Plan at any time; *provided, however*, that no amendment may adversely impair the rights of Participants with respect to outstanding awards. In addition, an amendment will be contingent on approval of the Company’s stockholders if (a) such approval is required by law or the rules of any exchange on which the Common Stock is listed, (b) if the amendment would materially increase the benefits accruing to Participants under this Plan, materially increase the aggregate number of shares of Common Stock that may be issued under this Plan and the Entities Plan (except as provided in Article XII) or materially modify the requirements as to eligibility for participation in this Plan or (c) other than in connection with an involuntary termination of employment (including but not limited to death or disability), the amendment would accelerate the time at which any Option or SAR may be exercised, the time at which a Stock Award or Other Equity-Based Award may become transferable or nonforfeitable or the time at which an Other Equity-Based Award, an Incentive Award or an award of Performance Units may be settled or if the amendment would extend the term of this Plan. For the avoidance of doubt, without the approval of stockholders, the Board may not (except pursuant to Article XII) (a) reduce the option price per share of an outstanding Option or the Initial Value of an outstanding SAR, (b) cancel an

outstanding Option or outstanding SAR when the option price or Initial Value, as applicable exceeds the Fair Market Value or (c) take any other action with respect to an outstanding Option or an outstanding SAR that may be treated as a repricing of the award under the rules and regulations of the principal exchange on which the Common Stock is listed for trading.

-27-

---

**ARTICLE XVII  
DURATION OF PLAN**

No Stock Award, Performance Unit Award, Incentive Award, Option, SAR or Other Equity-Based Award may be granted under this Plan ten years after the Effective Date. Stock Awards, Performance Unit awards, Options, SARs and Other Equity-Based Awards granted before such date shall remain valid in accordance with their terms.

**ARTICLE XVIII  
EFFECTIVENESS OF PLAN**

Options, SARs, Stock Awards, Performance Unit Awards, Incentive Awards and Other Equity-Based Awards (including LTIP Units) may be granted under this Plan on and after October 6, 2022 (the "Effective Date").

-28-

---

**BLUEROCK HOMES TRUST, INC.**  
**EQUITY INCENTIVE PLAN FOR ENTITIES**  
**Effective October 6, 2022**

**ARTICLE I**  
**DEFINITIONS**

1.01 **Affiliate**

“Affiliate” means, with respect to any entity, any other entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with, the first entity (including, but not limited to, joint ventures, limited liability companies and partnerships). For this purpose, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”) shall mean ownership, directly or indirectly, of 50% or more of the total combined voting power of all classes of voting securities issued by such entity, or the possession, directly or indirectly, of the power to direct the management and policies of such entity, by contract or otherwise.

1.02 **Agreement**

“Agreement” means a written agreement (including any amendment or supplement thereto) between the Company and a Participant specifying the terms and conditions of a Stock Award, an award of Performance Units, an Incentive Award, an Option, SAR or Other Equity-Based Award (including an LTIP Unit) granted to such Participant.

1.03 **Board**

“Board” means the Board of Directors of the Company.

1.04 **Change in Control**

“Change in Control” means and includes each of the following:

(a) The acquisition, either directly or indirectly, by any individual, entity or group (within the meaning of Sections 13(d) and 14(d)(2) of the Exchange Act) of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act), of more than 30% of either (i) the then outstanding shares of Common Stock, taking into account as outstanding for this purpose such shares of Common Stock issuable upon the exercise of options or warrants, the conversion of convertible shares or debt, and the exercise of any similar right to acquire such Common Stock (but excluding any OP Units) (the “Outstanding Company Common Stock”) or (ii) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); *provided, however*, that the following acquisitions shall not constitute a Change in Control (i) any acquisition by the Company or any of its subsidiaries, (ii) any acquisition by a trustee or other fiduciary holding the Company’s securities under an employee benefit plan sponsored or maintained by the Company or any of its Affiliates, (iii) any acquisition by an underwriter, initial purchaser or placement agent temporarily holding the Company’s securities pursuant to an offering of such securities or (iv) any acquisition by an entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of the then Outstanding Company Common Stock.

---

(b) Individuals who constitute Incumbent Directors at the beginning of any consecutive twelve month period, together with any new Incumbent Directors who become members of the Board during such twelve month period, cease to be a majority of the Board at the end of such twelve month period.

(c) The consummation of a reorganization, merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company that requires the approval of the Company's stockholders, whether for such transaction or the issuance of securities in the transaction (a "Business Combination"), in each case, unless following such Business Combination:

(i) the individuals and entities who were the beneficial owners of the Outstanding Company Voting Securities immediately prior to such Business Combination, beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or the analogous governing body) of the entity resulting from such Business Combination (the "Successor Entity") (or, if applicable, the ultimate parent entity that directly or indirectly has beneficial ownership of sufficient voting securities to elect a majority of the members of the board of directors (or the analogous governing body) of the Successor Entity (the "Parent Company"));

(ii) no Person (other than any employee benefit plan sponsored or maintained by the Successor Entity or the Parent Company) beneficially owns (within the meaning of Rule 13d-3 under the Exchange Act), directly or indirectly, more than 50% of the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Successor Entity); and

(iii) at least a majority of the members of the board of directors (or the analogous governing body) of the Parent Company (or, if there is no Parent Company, the Successor Entity) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination.

(d) The direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its subsidiaries, taken as a whole, to any Person that is not a subsidiary of the Company.

In addition, if a Change in Control (as defined in clauses (a) through (d) above) constitutes a payment event with respect to any Option, SAR, Stock Award, Performance Unit, Incentive Award or Other Equity-Based Award that provides for the deferral of compensation and is subject to Section 409A of the Code, no payment will be made under that award on account of a Change in Control unless the event described in subsection (a), (b), (c) or (d) above, as applicable, constitutes a "change in control event" as defined in Treasury Regulation Section 1.409A-3(i)(5).

1.05 **Code**

"Code" means the Internal Revenue Code of 1986, and any amendments thereto.

1.06 **Committee**

"Committee" means the Compensation Committee of the Board or such other committee of the Board as the Board may from time to time designate. Unless otherwise determined by the Board, the Committee shall consist of two or more members of the Board, at least two of whom are intended to qualify as "non-employee directors" as defined by Rule 16b-3 of the Exchange Act or any successor rule; *provided, however*, that any action taken by the Committee shall be valid and effective, whether or not the members of the Committee at the time of such action are later determined not to have satisfied the foregoing requirements or otherwise provided in any charter of the Committee. If there is no Compensation Committee and the Board has not designated any other committee, then "Committee" means the Board.

1.07 **Common Stock**

"Common Stock" means the Class A or Class C common stock of the Company.

1.08 **Company**



“Company” means Bluerock Homes Trust, Inc., a Maryland corporation.

1.09 **Control Change Date**

“Control Change Date” means the date on which a Change in Control occurs. If a Change in Control occurs on account of a series of transactions, the “Control Change Date” is the date of the last of such transactions on which the Change in Control occurs.

1.10 **Corresponding SAR**

“Corresponding SAR” means an SAR that is granted in relation to a particular Option and that can be exercised only upon the surrender to the Company, unexercised, of that portion of the Option to which the SAR relates.

1.11 **Dividend Equivalent Right**

“Dividend Equivalent Right” means the right, subject to the terms and conditions prescribed by the Committee, of a Participant to receive (or have credited) cash, securities or other property in amounts equivalent to the cash, securities or other property dividends declared on shares of Common Stock with respect to specified Performance Units, an Other Equity-Based Award or Incentive Award of units denominated in shares of Common Stock or other Company securities, as determined by the Committee, in its sole discretion. The Committee shall provide that Dividend Equivalent Rights payable with respect to any such award that does not become nonforfeitable solely on the basis of continued service shall be accumulated and distributed only when, and to the extent that, the underlying award is vested or earned. The Committee may provide that Dividend Equivalent Rights (if any) shall be deemed to have been reinvested in additional shares of Common Stock or otherwise reinvested.

---

-3-

---

1.12 **Effective Date**

“Effective Date” means the Effective Date as set forth in Article XVIII.

1.13 **Exchange Act**

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

1.14 **Fair Market Value**

“Fair Market Value” means, on any given date, the reported “closing” price of a share of Common Stock on the New York Stock Exchange for such date or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which a quotation exists. If, on any given date, the Common Stock is not listed for trading on the New York Stock Exchange, then Fair Market Value shall be the “closing” price of a share of Common Stock on such other exchange on which the Common Stock is listed for trading for such date (or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which such quotation exists) or, if the Common Stock is not listed on any exchange, the amount determined by the Committee using any reasonable method in good faith and in accordance with the regulations under Section 409A of the Code.

1.15 **Incentive Award**

“Incentive Award” means an award awarded under Article XI which, subject to the terms and conditions prescribed by the Committee, entitles the Participant to receive a payment from the Company or an Affiliate of the Company.

1.16 **Incumbent Directors**

“Incumbent Directors” means individuals elected to 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 objection to such nomination) and whose election or nomination for election to the Board was approved by a vote of at least two-thirds of the directors serving on the Board at the time of the election or nomination, as applicable, shall be an Incumbent Director. No individual designated to serve as a director by a person

who shall have entered into an agreement with the Company to effect a transaction described in Section 1.04(a) or Section 1.04(c) and no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors shall be an Incumbent Director.

-4-

---

1.17 **Individuals Plan**

“**Individuals Plan**” means the Bluerock Homes Trust, Inc. Equity Incentive Plan for Individuals, effective as of the Effective Time, and as may be amended from time to time.

1.18 **Initial Value**

“**Initial Value**” means, with respect to a Corresponding SAR, the option price per share of the related Option and, with respect to an SAR granted independently of an Option, the price per share of Common Stock as determined by the Committee on the date of grant; *provided, however*, that the price shall not be less than the Fair Market Value on the date of grant. Except as provided in Article XII, without the approval of stockholders (a) the Initial Value of an outstanding SAR may not be reduced (by amendment, cancellation and new grant or otherwise) and (b) no payment shall be made in cancellation of an SAR if, on the date of such amendment, cancellation, new grant or payment the Initial Value exceeds Fair Market Value.

1.19 **LTIP Unit**

“**LTIP Unit**” means an “LTIP Unit” as defined in the Operating Partnership’s partnership agreement. An LTIP Unit granted under this Plan represents the right to receive the benefits, payments or other rights in respect of an LTIP Unit set forth in that partnership agreement, subject to the terms and conditions of the applicable Agreement and that partnership agreement.

1.20 **Manager**

“**Manager**” means Bluerock Homes Manager, LLC, a Delaware limited liability company.

1.21 **Offering**

“**Offering**” means the initial public offering of Common Stock registered under the Securities Act of 1933, as amended.

1.22 **OP Units**

“**OP Units**” means units of limited partnership interest of the Operating Partnership.

1.23 **Operating Partnership**

“**Operating Partnership**” means Bluerock Residential Holdings, L.P., a Delaware limited partnership and the Company’s operating partnership.

1.24 **Option**

“**Option**” means a stock option that entitles the holder to purchase from the Company a stated number of shares of Common Stock at the price set forth in an Agreement.

-5-

---

1.25 **Other Equity-Based Award**

“Other Equity-Based Award” means any award other than an Incentive Award, an Option, an SAR, a Performance Unit award or a Stock Award which, subject to such terms and conditions as may be prescribed by the Committee, entitles a Participant to receive shares of Common Stock or rights or units valued in whole or in part by reference to, or otherwise based on, shares of Common Stock (including securities convertible into Common Stock) or other equity interests, including LTIP Units.

1.26 **Participant**

“Participant” means any entity that provides services to the Company or an Affiliate of the Company (including an entity that provides services to the Company or an Affiliate of the Company by virtue of its providing services to the Operating Partnership, an Affiliate of the Operating Partnership or the Manager), and that satisfies the requirements of Article IV and is selected by the Committee to receive an award of Performance Units or a Stock Award, an Incentive Award, Option, SAR, Other Equity-Based Award or a combination thereof.

1.27 **Performance Award**

“Performance Award” means an Option, SAR, Stock Award, award of Performance Units, Incentive Award or Other Equity-Based Award (including an LTIP Unit) that is not a Time-Based Award.

1.28 **Performance Units**

“Performance Units” means an award, in the amount determined by the Committee, stated with reference to a specified or determinable number of shares of Common Stock, that in accordance with the terms of an Agreement entitles the holder to receive a payment for each specified unit equal to the value of an equal number of shares of Common Stock on the date of payment.

1.29 **Plan**

“Plan” means this Bluerock Homes Trust, Inc. Equity Incentive Plan for Entities, as set forth herein and as may be amended from time to time.

1.30 **REIT**

“REIT” means a real estate investment trust within the meaning of Sections 856 through 860 of the Code.

1.31 **SAR**

“SAR” means a stock appreciation right that in accordance with the terms of an Agreement entitles the holder to receive, with respect to each share of Common Stock encompassed by the exercise of the SAR, the excess, if any, of the Fair Market Value at the time of exercise over the Initial Value. References to “SARs” include both Corresponding SARs and SARs granted independently of Options, unless the context requires otherwise.

---

-6-

1.32 **Stock Award**

“Stock Award” means shares of Common Stock awarded to a Participant under Article VIII.

1.33 **Time-Based Award**

“Time-Based Award” means an Option, SAR, Stock Award, award of Performance Units, Incentive Award or Other Equity-Based Award (including an LTIP Unit) that vests, is earned or becomes exercisable based solely on continued employment or service.

**ARTICLE II  
PURPOSES**

This Plan is intended to assist the Company and its Affiliates in securing and retaining the services of entities that provide services to the Company or an Affiliate of the Company with ability and initiative by enabling such entities to participate in the future success of the Company and its Affiliates and to associate their interests with those of the Company and its stockholders. This Plan is intended to permit the grant of Options, SARs, Stock Awards, Performance Units, Incentive Awards and Other Equity-Based Awards in accordance with this Plan and any procedures that may be established by the Committee.

### **ARTICLE III ADMINISTRATION**

This Plan shall be administered by the Committee. The Committee shall have authority to grant SARs, Stock Awards, Performance Units, Incentive Awards, Options and Other Equity-Based Awards upon such terms (not inconsistent with the provisions of this Plan), as the Committee may consider appropriate. Such terms may include conditions (in addition to those contained in this Plan), on the exercisability of all or any part of an Option or SAR or on the transferability or forfeitability of a Stock Award, an award of Performance Units, an Incentive Award or an Other Equity-Based Award. Notwithstanding any such conditions, or any provision of the Plan, the Committee may, in its discretion, accelerate the time at which any Option or SAR may be exercised, or the time at which a Stock Award or Other Equity-Based Award may become transferable or nonforfeitable or the time at which an Other Equity-Based Award, an Incentive Award or an award of Performance Units may be settled in connection with an involuntary termination of service. Options, SARs, Stock Awards, Performance Units, Incentive Awards and Other Equity-Based Awards (including LTIP Units) for up to five percent of the aggregate number of shares of Common Stock authorized for issuance under the Plan pursuant to Section 5.02 may be granted or awarded by the Committee without regard to the minimum vesting requirements of Sections 6.06, 7.04, 8.02, 9.02, 10.02 and 11.02. In addition, the Committee shall have complete authority to interpret all provisions of this Plan; to prescribe the form of Agreements; to adopt, amend, and rescind rules and regulations pertaining to the administration of this Plan (including rules and regulations that require or allow Participants to defer the payment of benefits under this Plan); and to make all other determinations necessary or advisable for the administration of this Plan.

-7-

---

The Committee's determinations under this Plan (including without limitation, determinations of the entities to receive awards under this Plan, the form, amount and timing of such awards, the terms and provisions of such awards and the Agreements) need not be uniform and may be made by the Committee selectively among entities who receive, or are eligible to receive, awards under this Plan, whether or not such entities are similarly situated. The express grant in this Plan of any specific power to the Committee with respect to the administration or interpretation of this Plan shall not be construed as limiting any power or authority of the Committee with respect to the administration or interpretation of this Plan. Any decision made, or action taken, by the Committee in connection with the administration of this Plan shall be final and conclusive. The members of the Committee shall not be liable for any act done in good faith with respect to this Plan or any Agreement, Option, SAR, Incentive Award, Stock Award, Other Equity-Based Award or award of Performance Units. All expenses of administering this Plan shall be borne by the Company.

### **ARTICLE IV ELIGIBILITY**

Any entity that provides significant services to the Company or an Affiliate of the Company (including an entity that provides services to the Company or an Affiliate of the Company by virtue of its providing services to the Operating Partnership, an Affiliate of the Operating Partnership or the Manager) is eligible to participate in this Plan if the Committee, in its sole reasonable discretion, determines that the participation of such entity is in the best interest of the Company.

### **ARTICLE V COMMON SHARES SUBJECT TO PLAN**

#### **5.01 Common Shares Issued**

Upon the award of Common Stock pursuant to a Stock Award, an Other Equity-Based Award or in settlement of an Incentive Award or an award of Performance Units, the Company may deliver (and shall deliver if required under an Agreement) to the Participant shares of Common Stock from its authorized but unissued Common Shares. Upon the exercise of any Option or SAR, the Company may deliver, to the Participant (or the Participant's broker if the Participant so directs), shares of Common Stock from its authorized but unissued Common Shares.

## 5.02 **Aggregate Limit**

(a) The maximum aggregate number of shares of Common Stock that may be issued under this Plan (pursuant to Options and SARs, Stock Awards or Other Equity-Based Awards and the settlement of Incentive Awards and Performance Units granted on or after the Effective Date) together with the number of shares of Common Stock issued under the Individuals Plan (pursuant to Options and SARs, Stock Awards or Other Equity-Based Awards and the settlement of Incentive Awards and Performance Units granted under the Individuals Plan on or after the Effective Date) is equal to 1,200,000 shares, plus a number of shares of Common Stock equal to the number of LTIP Units granted under the Bluerock Residential Growth REIT, Inc. Amended and Restated 2014 Equity Incentive Plan for Individuals and the Bluerock Residential Growth REIT, Inc. Amended and Restated 2014 Equity Incentive Plan for Entities that are outstanding as of the Effective Date. Other Equity-Based Awards that are LTIP Units shall reduce the maximum aggregate number of Common Shares that may be issued under this Plan and the Individuals Plan on a one-for-one basis, *i.e.*, the grant of each LTIP Unit shall be treated as an award of a share of applicable Common Stock.

-8-

---

(b) The maximum number of shares of Common Stock that may be issued under this Plan and the Individuals Plan in accordance with Section 5.02(a) shall be subject to adjustment as provided in Article XII.

## 5.03 **Reallocation of Shares**

If, on or after the Effective Date, any award or grant under this Plan or the Individuals Plan (including LTIP Units and awards or grants made before the Effective Date) expires, is forfeited or is terminated without having been exercised or is paid in cash without a requirement for the delivery of Common Stock, then any shares of Common Stock covered by such lapsed, cancelled, expired, unexercised or cash-settled portion of such award or grant and any forfeited, lapsed, cancelled or expired LTIP Units shall be available for the grant of other Options, SARs, Stock Awards, Other Equity-Based Awards and settlement of Incentive Awards and Performance Units under this Plan or the Individuals Plan. Any shares of Common Stock tendered or withheld on or after the Effective Date to satisfy the grant or exercise price or tax withholding obligation pursuant to any award under this Plan or the Individuals Plan shall not be available for future grants or awards. If shares of Common Stock are issued in settlement of an SAR granted under this Plan or the Individuals Plan, the number of shares of Common Stock available under this Plan and the Individuals Plan shall be reduced by the number of shares of Common Stock for which the SAR was exercised rather than the number of shares of Common Stock issued in settlement of the SAR. To the extent permitted by applicable law or the rules of any exchange on which the Common Stock is listed for trading, shares of Common Stock issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by the Company or any Affiliate of the Company shall not reduce the number of shares of Common Stock available for issuance under this Plan and the Individuals Plan.

## ARTICLE VI OPTIONS

### 6.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom an Option is to be granted and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards.

### 6.02 **Option Price**

The price per share of Common Stock purchased on the exercise of an Option shall be determined by the Committee on the date of grant, but shall not be less than the Fair Market Value on the date the Option is granted. Except as provided in Article XII, without the approval of stockholders (a) the price per share of Common Stock of an outstanding Option may not be reduced (by amendment, cancellation and new grant or otherwise) and (b) no payment shall be made in cancellation of an Option if, on the date of such amendment, cancellation, replacement grant or payment the Option Price exceeds Fair Market Value.

-9-

---

### 6.03 **Maximum Option Period**

The maximum period in which an Option may be exercised shall be determined by the Committee on the date of grant except that no Option shall be exercisable after the expiration of ten years from the date such Option was granted. The terms of any Option may provide that it is exercisable for a period less than such maximum period.

### 6.04 **Transferability**

An Option granted under this Plan may be transferred only in accordance with this Section 6.04. To the extent permitted by the Agreement relating to an Option, an Option granted under this Plan may be transferred by a Participant but only to an Affiliate of the Participant or an individual who is employed by or provides services to the Participant or an Affiliate of the Participant. The holder of an Option transferred pursuant to this Section 6.04 shall be bound by the same terms and conditions that governed the Option during the period it was held by the Participant. If an Option is transferred (by the Participant or the Participant's transferee), such Option and any Corresponding SAR must be transferred to the same person or persons or entity or entities.

### 6.05 **Service Provider Status**

In the event that the terms of any Option provide that it may be exercised only during continued service or within a specified period of time after termination of continued service, the Committee may decide to what extent temporary interruptions of continuous service shall affect the Option.

### 6.06 **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an Option may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; *provided, however*, that (subject to the provisions of Article III) no Option may become exercisable before the first anniversary of its grant or as provided in Section 15.01. An Option granted under this Plan may be exercised with respect to any number of whole shares of Common Stock less than the full number for which the Option could be exercised. A partial exercise of an Option shall not affect the right to exercise the Option from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares of Common Stock subject to the Option. The exercise of an Option shall result in the termination of any Corresponding SAR to the extent of the number of shares of Common Stock with respect to which the Option is exercised.

### 6.07 **Payment**

Subject to rules established by the Committee and unless otherwise provided in an Agreement, payment of all or part of the Option price may be made in cash, certified check, by tendering shares of Common Stock, by attestation of ownership of shares of Common Stock, by a broker-assisted cashless exercise or in such other form or manner acceptable to the Committee. If shares of Common Stock are used to pay all or part of the Option price, the sum of the cash and cash equivalent and the Fair Market Value (determined on the date of exercise) of the Common Stock so surrendered or other consideration paid must not be less than the Option price of the shares for which the Option is being exercised.

---

-10-

---

### 6.08 **Stockholder Rights**

No Participant shall have any rights as a stockholder with respect to shares of Common Stock subject to an Option until the date of exercise of such Option.

### 6.09 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired pursuant to the portion of an Option before the earlier of (i) the first anniversary of the exercise of such portion of the Option or (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

## ARTICLE VII SARS

### 7.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom SARs are to be granted and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards.

### 7.02 **Maximum SAR Period**

The term of each SAR shall be determined by the Committee on the date of grant, except that no SAR shall have a term of more than ten years from the date of grant. The terms of any SAR may provide that it has a term that is less than such maximum period.

### 7.03 **Transferability**

An SAR granted under this Plan may be transferred only in accordance with this Section 7.03. To the extent permitted by the Agreement relating to an SAR, an SAR granted under this Plan may be transferred by a Participant but only to an Affiliate of the Participant or an individual who is employed by or provides services to the Participant or an Affiliate of the Participant. The holder of an SAR transferred pursuant to this Section 7.03 shall be bound by the same terms and conditions that governed the SAR during the period it was held by the Participant. If a Corresponding SAR is transferred (by the Participant or the Participant's transferee), such Corresponding SAR and the related Option must be transferred to the same person or persons or entity or entities.

### 7.04 **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an SAR may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; *provided, however*, that (subject to the provisions of Article III) no SAR may become exercisable before the first anniversary of its grant or as provided in Section 15.01. An SAR granted under this Plan may be exercised with respect to any number of whole shares less than the full number for which the SAR could be exercised. A partial exercise of an SAR shall not affect the right to exercise the SAR from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares of Common Stock subject to the SAR. The exercise of a Corresponding SAR shall result in the termination of the related Option to the extent of the number of shares of Common Stock with respect to which the SAR is exercised.

---

-11-

---

### 7.05 **Service Provider Status**

If the terms of any SAR provide that it may be exercised only during continued service or within a specified period of time after termination of continued service, the Committee may decide to what extent temporary interruptions of continuous service shall affect the SAR.

### 7.06 **Settlement**

At the Committee's discretion, the amount payable as a result of the exercise of an SAR may be settled in cash, shares of Common Stock, or a combination of cash and Common Stock. No fractional share of Common Stock will be deliverable upon the exercise of an SAR but a cash payment will be made in lieu thereof.

### 7.07 **Stockholder Rights**

No Participant shall, as a result of receiving an SAR, have any rights as a stockholder of the Company or any Affiliate of the Company until the date that the SAR is exercised and then only to the extent that the SAR is settled by the issuance of Common Stock.

### 7.08 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired pursuant to the portion of an SAR before the earlier of (i) the first anniversary of the exercise of such portion of the SAR or (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

## **ARTICLE VIII STOCK AWARDS**

### **8.01 Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom a Stock Award is to be made and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards.

### **8.02 Vesting**

The Committee, on the date of the award, shall prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted for a period of time or subject to such conditions as may be set forth in the Agreement. Subject to the provisions of Article III, the period in which the shares of Common Stock covered by a Stock Award are forfeitable or otherwise restricted shall not end before the first anniversary of the grant of the Stock Award or as provided in Section 15.01. By way of example and not of limitation, the Committee may prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted subject to the attainment of objectives stated with reference to the business of the Company or an Affiliate of the Company or a business unit's attainment of objectives stated with respect to performance criteria established by the Committee.

-12-

---

### **8.03 Service Provider Status**

In the event that the terms of any Stock Award provide that shares may become transferable and nonforfeitable thereunder only after completion of a specified period of employment or continuous service, the Committee may decide in each case to what extent temporary interruptions of continuous service shall affect the Stock Award.

### **8.04 Stockholder Rights**

Unless otherwise specified in accordance with the applicable Agreement, while the shares of Common Stock granted pursuant to the Stock Award may be forfeited or are nontransferable, a Participant will have all rights of a stockholder with respect to a Stock Award, including the right to receive dividends and vote the shares of Common Stock; *provided, however*, that (i) dividends payable on shares of Common Stock subject to a Stock Award that does not become nonforfeitable solely on the basis of continued service shall be accumulated and paid, without interest, when and to the extent that the underlying Stock Award becomes nonforfeitable; (ii) a Participant may not sell, transfer, pledge, exchange, hypothecate, or otherwise dispose of shares of Common Stock granted pursuant to a Stock Award; and (iii) shares of Common Stock granted pursuant to a Stock Award shall be evidenced in such manner as the Committee may deem appropriate, including book-entry registration or issuance of one or more stock certificates and if any certificate is issued in respect of shares of Common Stock granted pursuant to a Stock Award, such certificate shall be registered in the name of the Participant and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Stock Award substantially in the following form:

The transferability of this certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture) of the Bluerock Homes Trust, Inc. Equity Incentive Plan for Individuals and an award agreement. Copies of such plan and award agreement are on file at the offices of Bluerock Homes Trust, Inc.

### **8.05 Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock acquired under the portion of a Stock Award before the earlier of (i) the first anniversary of the date that such portion became nonforfeitable and (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.



**ARTICLE IX  
PERFORMANCE UNIT AWARDS**

9.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom an award of Performance Units is to be made and will specify the number of shares of Common Stock covered by such awards and the terms and conditions of such awards. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Performance Units.

9.02 **Earning the Award**

The Committee, on the date of the grant of an award, shall prescribe that the Performance Units will be earned, and the Participant will be entitled to receive payment pursuant to the award of Performance Units, only upon the satisfaction of performance objectives or such other criteria as may be prescribed by the Committee. Subject to the provisions of Article III, the period in which Performance Units will be earned shall not end before the first anniversary of the grant of the Performance Units or as provided in Section 15.01.

9.03 **Payment**

In the discretion of the Committee, the amount payable when an award of Performance Units is earned may be settled in cash, by the issuance of shares of Common Stock, by the grant of an Other Equity-Based Award (including LTIP Units), by the delivery of other securities or property or a combination thereof. A fractional share of Common Stock shall not be deliverable when an award of Performance Units is earned, but a cash payment will be made in lieu thereof. The amount payable when an award of Performance Units is earned shall be paid in a lump sum.

9.04 **Stockholder Rights**

A Participant, as a result of receiving an award of Performance Units, shall not have any rights as a stockholder until, and then only to the extent that, the award of Performance Units is earned and settled in shares of Common Stock. After an award of Performance Units is earned and settled in Common Stock, a Participant will have all the rights of a stockholder of the Company.

9.05 **Transferability**

Any rights or restrictions with respect to the ability of the holder of any Performance Unit granted under this Plan to transfer such Performance Unit shall be set forth in the Agreement relating to such grant.

9.06 **Service Provider Status**

In the event that the terms of any Performance Unit award provide that no payment will be made unless the Participant completes a stated period of continued service, the Committee may decide to what extent temporary interruptions of continuous service shall effect the Performance Unit award.

9.07 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock issued in settlement of Performance Units before the earlier of (i) the first anniversary of the date the shares were issued to the Participant or (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

**ARTICLE X  
OTHER EQUITY-BASED AWARDS**

**10.01 Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom an Other Equity-Based Award is to be made and will specify the number of shares of Common Stock or other equity interests (including LTIP Units) covered by such awards and the terms and conditions of such awards; *provided, however*, that the grant of LTIP Units must satisfy the requirements of the partnership agreement of the Operating Partnership as in effect on the date of grant. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Other Equity-Based Award.

**10.02 Terms and Conditions**

The Committee, at the time an Other Equity-Based Award is made, shall specify the terms and conditions which govern the award. The terms and conditions of an Other Equity-Based Award may prescribe that a Participant's rights in the Other Equity-Based Award shall be forfeitable, nontransferable or otherwise restricted for a period of time or subject to such other conditions as may be determined by the Committee, in its discretion and set forth in the Agreement. Subject to the Provisions of Article III, the period in which such award shall be forfeitable, nontransferable or otherwise restricted shall not end before the first anniversary of the grant of the Other Equity-Based Award or as provided in Section 15.01. Other Equity-Based Awards may be granted to Participants, either alone or in addition to other awards granted under this Plan, and Other Equity-Based Awards may be granted in the settlement of other Awards granted under this Plan.

**10.03 Payment or Settlement**

Other Equity-Based Awards valued in whole or in part by reference to, or otherwise based on, Common Stock, shall be payable or settled in shares of Common Stock, cash or a combination of Common Stock and cash, as determined by the Committee in its discretion; *provided, however*, that any shares of Common Stock that are issued on account of the conversion of LTIP Units into shares of Common Stock shall not be issued under this Plan, *i.e.*, the conversion shall not reduce the number of shares of Common Stock available for issuance under the Plan or the Entities Plan. Other Equity-Based Awards denominated as equity interests other than shares of Common Stock may be paid or settled in shares or units of such equity interests or cash or a combination of both as determined by the Committee in its discretion.

---

-15-

---

**10.04 Service Provider Status**

If the terms of any Other Equity-Based Award provides that it may be earned or exercised only during continued service or within a specified period of time after termination of continued service, the Committee may decide to what extent temporary interruptions of continuous service shall affect the Other Equity-Based Award.

**10.05 Transferability**

Any rights or restrictions with respect to the ability of the holder of an Other Equity-Based Award (including LTIP Units) granted under the Plan to transfer such Other Equity-Based Award (including LTIP Units) shall be set forth in the Agreement relating to such grant.

**10.06 Stockholder Rights**

A Participant, as a result of receiving an Other Equity-Based Award, shall not have any rights as a stockholder until, and then only to the extent that, the Other Equity-Based Award is earned and settled in shares of Common Stock.

**10.07 Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock or other equity interests (including LTIP units) covered by an Other Equity-Based Award before the earlier of (i) the first anniversary of the date that such shares

or interests become nonforfeitable and (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

## ARTICLE XI INCENTIVE AWARDS

### 11.01 **Award**

In accordance with the provisions of Articles III and IV, the Committee will designate each entity to whom an Incentive Award is to be made and will specify the terms and conditions of such award. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Incentive Award.

### 11.02 **Terms and Conditions**

The Committee, at the time an Incentive Award is made, shall specify the terms and conditions that govern the award. Such terms and conditions may prescribe that the Incentive Award shall be earned only to the extent that the Participant, the Company or an Affiliate of the Company, during a performance period of at least one year, achieves objectives stated with reference to one or more performance measures or criteria prescribed by the Committee. A goal or objective may be expressed on an absolute basis or relative to the performance of one or more similarly situated companies or a published index. When establishing goals and objectives, the Committee may exclude any or all special, unusual, and/or extraordinary items as determined under U.S. generally accepted accounting principles including, without limitation, the charges or costs associated with restructurings of the Company, discontinued operations, other unusual or non-recurring items, and the cumulative effects of accounting changes. The Committee may also adjust the performance goals for any Incentive Award as it deems equitable in recognition of unusual or non-recurring events affecting the Company, changes in applicable tax laws or accounting principles, or such other factors as the Committee may determine. Such terms and conditions also may include other limitations on the payment of Incentive Awards including, by way of example and not of limitation, requirements that the Participant complete a specified period of service with the Company or an Affiliate of the Company or that the Company, an Affiliate of the Company, or the Participant attain stated objectives or goals (in addition to those prescribed in accordance with the preceding sentence) as a prerequisite to payment under an Incentive Award.

---

-16-

---

### 11.03 **Transferability**

Any rights or restrictions with respect to the ability of the holder of an Incentive Award granted under the Plan to transfer such Incentive Award shall be set forth in the Agreement relating to such grant.

### 11.04 **Service Provider Status**

If the terms of an Incentive Award provide that a payment will be made thereunder only if the Participant completes a stated period of continued service, the Committee may decide to what extent temporary interruptions of continuous service shall affect the Incentive Award.

### 11.05 **Settlement**

An Incentive Award that is earned shall be settled with a single lump sum payment which may be in cash, shares of Common Stock, an Other Equity-Based Award (including LTIP Units) or a combination thereof, as determined by the Committee.

### 11.06 **Stockholder Rights**

No Participant shall, as a result of receiving an Incentive Award, have any rights as a stockholder of the Company or an Affiliate of the Company until the date that the Incentive Award is settled and then only to the extent that the Incentive Award is settled by the issuance of shares of Common Stock.

### 11.07 **Disposition of Shares**

A Participant may not sell or dispose of more than fifty percent of the shares of Common Stock issued in settlement of an Incentive Award until the earlier of (i) the first anniversary of the date the shares were issued to the Participant or (ii) the date the Participant is no longer providing services to the Company, an Affiliate of the Company, or the Operating Partnership.

## **ARTICLE XII ADJUSTMENT UPON CHANGE IN COMMON SHARES**

The maximum number of shares of Common Stock as to which Options, SARs, Performance Units, Incentive Awards, Stock Awards and Other Equity-Based Awards may be granted under this Plan and the Entities Plan, and the terms of outstanding Stock Awards, Options, SARs, Incentive Awards, Performance Units and Other Equity-Based Awards granted under this Plan and the Entities Plan, shall be adjusted as the Board determines is equitably required in the event that (i) the Company (a) effects one or more nonreciprocal transactions between the Company and its shareholders such as a share dividend, extra-ordinary cash dividend, share split-up, subdivision or consolidation of Common Stock that affects the number or kind of shares of Common Stock (or other securities of the Company) or the Fair Market Value (or the value of other Company securities) and causes a change in the Fair Market Value of the shares of Common Stock subject to outstanding awards or (b) engages in a transaction to which Section 424 of the Code applies or (ii) there occurs any other event which, in the judgment of the Board necessitates such action. Any determination made under this Article XII by the Board shall be nondiscretionary, final and conclusive.

-17-

---

The issuance by the Company of any class of Common Stock, or securities convertible into any class of Common Stock, for cash or property, or for labor or services, either upon direct sale or upon the exercise of rights or warrants to subscribe therefor, or upon conversion of Common Stock or obligations of the Company convertible into such Common Stock or other securities, shall not affect, and no adjustment by reason thereof shall be made with respect to, the maximum number of shares of Common Stock as to which Options, SARs, Performance Units, Incentive Awards, Stock Awards and Other Equity-Based Awards may be granted under this Plan and the Entities Plan, or the terms of outstanding Stock Awards, Incentive Awards, Options, SARs, Performance Units or Other Equity-Based Awards under this Plan and the Entities Plan.

The Committee may make Stock Awards and may grant Options, SARs, Performance Units, Incentive Awards or Other Equity-Based Awards under this Plan and under the Entities Plan in substitution for performance shares, phantom shares, share awards, stock options, share appreciation rights, or similar awards held by an individual who becomes an employee of the Company or an Affiliate of the Company in connection with a transaction described in the first paragraph of this Article XII. Notwithstanding any provision of this Plan and the Entities Plan, the terms of such substituted Stock Awards, SARs, Other Equity-Based Awards, Options or Performance Units granted under this Plan or the Entities Plan shall be as the Committee, in its discretion, determines is appropriate.

## **ARTICLE XIII COMPLIANCE WITH LAW AND APPROVAL OF REGULATORY BODIES**

No Option or SAR shall be exercisable, no Common Stock shall be issued, no certificates for shares of Common Stock shall be delivered, and no payment shall be made under this Plan except in compliance with all applicable federal, state and foreign laws and regulations (including, without limitation, withholding tax requirements), any listing agreement to which the Company is a party, and the rules of all stock exchanges on which the Common Stock may be listed. The Company shall have the right to rely on an opinion of its counsel as to such compliance. Any certificate issued to represent Common Stock when a Stock Award is granted, a Performance Unit, Incentive Award or Other Equity-Based Award is settled or for which an Option or SAR is exercised may bear such legends and statements as the Committee may deem advisable to assure compliance with federal, state and foreign laws and regulations. No Option or SAR shall be exercisable, no Stock Award or Performance Unit shall be granted, no Common Stock shall be issued, no certificate for Common Stock shall be delivered, and no payment shall be made under this Plan until the Company has obtained such consent or approval as the Committee may deem advisable from regulatory bodies having jurisdiction over such matters.

-18-

---

**ARTICLE XIV  
GENERAL PROVISIONS**

**14.01 Effect on Service**

Neither the adoption of this Plan, its operation, nor any documents describing or referring to this Plan (or any part thereof), shall confer upon any entity any right to continue in the service of the Company or an Affiliate of the Company or in any way affect any right and power of the Company or an Affiliate of the Company to terminate the service of any entity at any time with or without assigning a reason therefor.

**14.02 Unfunded Plan**

This Plan, insofar as it provides for grants, shall be unfunded, and the Company shall not be required to segregate any assets that may at any time be represented by grants under this Plan. Any liability of the Company to any person with respect to any grant under this Plan shall be based solely upon any contractual obligations that may be created pursuant to this Plan. No such obligation of the Company shall be deemed to be secured by any pledge of, or other encumbrance on, any property of the Company.

**14.03 Rules of Construction**

Headings are given to the articles and sections of this Plan solely as a convenience to facilitate reference. The reference to any statute, regulation, or other provision of law shall be construed to refer to any amendment to or successor of such provision of law.

All awards made under this Plan are intended to comply with, or otherwise be exempt from, Section 409A of the Code (“Section 409A”), after giving effect to the exemptions in Treasury Regulation sections 1.409A-1(b)(3) through (b)(12). This Plan and all Agreements shall be administered, interpreted and construed in a manner consistent with Section 409A. Nevertheless, the tax treatment of the benefits provided under this Plan or any Agreement is not warranted or guaranteed. Neither the Company, its Affiliates nor their respective directors or trustees, officers, employees or advisors shall be held liable for any taxes, interest, penalties or other monetary amounts owed by any Participant or any other taxpayer as a result of the Plan or any Agreement. If any provision of this Plan or any Agreement is found not to comply with, or otherwise not be exempt from, the provisions of Section 409A, it shall be modified and given effect, in the sole discretion of the Committee and without requiring the Participant’s consent, in such manner as the Committee determines to be necessary or appropriate to comply with, or effectuate an exemption from, Section 409A. Each payment under an award granted under this Plan shall be treated as a separate identified payment for purposes of Section 409A.

If a payment obligation under an award or an Agreement arises on account of the Participant’s termination of service and such payment obligation constitutes “deferred compensation” (as defined under Treasury Regulation section 1.409A-1(b)(1), after giving effect to the exemptions in Treasury Regulation sections 1.409A-1(b)(3) through (b)(12)), it shall be payable only after the Participant’s “separation from service” (as defined under Treasury Regulation section 1.409A-1(h)).

**14.04 Withholding Taxes**

Each Participant shall be responsible for satisfying any income, employment and other tax withholding obligations attributable to participation in this Plan. Unless otherwise provided by the Agreement, any such withholding tax obligations may be satisfied in cash (including from any cash payable in settlement of an award of Performance Units, SARs or Other Equity-Based Award) or a cash equivalent acceptable to the Committee. Except to the extent prohibited by Treasury Regulation Section 1.409A-3(j), any minimum statutory federal, state, district, city or foreign withholding tax obligations also may be satisfied (a) by surrendering to the Company shares of Common Stock previously acquired by the Participant; (b) by authorizing the Company to withhold or reduce the number of shares of Common Stock otherwise issuable to the Participant upon the exercise of an Option or SAR, the settlement of a Performance Unit award, Incentive Award or an Other Equity-Based Award (if applicable) or the grant or vesting of a Stock Award; or (c) by any other method as may be approved by the Committee. If shares of Common Stock are used to pay all or part of such withholding tax obligation, the Fair Market Value of the Common Stock surrendered, withheld or reduced shall be determined as of the date of surrender, withholding or reduction and the number of shares of Common Stock which may be withheld, surrendered or reduced shall be limited to the number of shares of Common Stock which have a Fair Market Value on the date of withholding, surrender or reduction equal to the aggregate

amount of such liabilities based on the minimum statutory withholding rates for tax purposes that are applicable to such supplemental taxable income.

#### 14.05 **REIT Status**

This Plan shall be interpreted and construed in a manner consistent with the Company's status as a REIT. No award shall be granted or awarded, and with respect to any award granted under this Plan, such award shall not vest, be exercisable or be settled (i) to the extent that the grant, vesting, exercise or settlement could cause the Participant or any other person to be in violation of the share ownership limit or any other limitation on ownership or transfer prescribed by the Company's charter, or (ii) if, in the discretion of the Committee, the grant, vesting, exercise or settlement of the award could impair the Company's status as a REIT.

#### 14.06 **Elections Under Section 83(b)**

No Participant may make an election under Section 83(b) of the Code with respect to the grant of any award, the vesting of any award, the settlement of any award or the issuance of Common Stock under the Plan without the consent of the Company, which the Company may grant or withhold in its sole discretion.

#### 14.07 **Return of Awards; Repayment**

Each Option, SAR, Stock Award, Performance Unit Award, Incentive Award and Other Equity-Based Award (including an LTIP Unit) granted under the Plan is subject to the condition that the Company may require that such award be returned, and that any payment made with respect to such award must be repaid, if (a) such action is required under the terms of any Company recoupment or "clawback" policy as in effect on the date that the award was granted or (b) such award or payment made with respect to an award is, or in the future becomes, subject to any law, rule, requirement or regulation which imposes mandatory recoupment or forfeiture, under circumstances set forth in such law, rule, requirement or regulation; *provided, however*, that such clawback shall not be duplicative of any clawback required under clause (a).

-20-

---

## ARTICLE XV CHANGE IN CONTROL

#### 15.01 **Time-Based Awards or Performance Awards Not Assumed**

Each award (including a Time-Based Award or a Performance Award) that is outstanding on a Control Change Date and that is not assumed or replaced with a substitute award in accordance with Section 15.02 shall be fully vested, earned or exercisable as of the Control Change Date, provided that the performance objectives in respect of a Performance Award shall be deemed to be achieved at (unless otherwise agreed in connection with the Change in Control) the greater of (a) the applicable target level and (b) the level of achievement of the performance objectives for the award as determined by the Committee taking into account performance through the latest date preceding the Control Change Date (but not later than the end of the applicable performance period).

The Committee, in its discretion and without the need of the consent of a Participant (or a Participant's transferee of an award), may provide that a Time-Based Award or a Performance Award that becomes vested, earned or exercisable under this Section 15.01 may be cancelled in exchange for a payment. The payment may be in cash, Common Stock or other securities or consideration received by stockholders in the Change in Control transaction. With respect to each Time-Based Award or Performance Award that becomes vested, earned or exercisable under this Section 15.01, the payment shall be an amount that is substantially equal to (i) the amount by which the price per share received by stockholders in the Change in Control for each share of Common Stock exceeds the option price or Initial Value in the case of an Option and SAR or (ii) for each vested share of Common Stock subject to a Stock Award, Performance Unit or Other Equity-Based Award, the price per share received by stockholders for Common Stock and (iii) the value of the other securities or property in which the Performance Unit or Other Equity-Based Award is denominated and vested. Notwithstanding any contrary provision of this Section 15.01, if the option price or Initial Value exceeds the price per share of Common Stock received by stockholders in the Change in Control transaction, the Option or SAR may be cancelled without any payment to the Participant.

#### 15.02 **Assumption of Time-Based Awards and Performance Awards**

The Committee, in its discretion and without the need of a Participant's consent, may provide that a performance Award that is outstanding on the Control Change Date shall be assumed by, or a substitute award granted by, the Successor Entity (or if applicable, the Parent Company) in the Change in Control. Such assumed or substituted award shall be of the same type of award as the original Performance Award being assumed or replaced. The assumed or substituted award shall have a value, as of the Control Change Date, that is substantially equal to the value of the original Performance Award (or the difference between the Fair Market Value and the option price or Initial Value in the case of Options and SARs) as the Committee determines is equitably required. The assumed or substituted award shall have the same vesting terms and conditions as the original Performance Award being assumed or replaced; *provided, however*, that the performance objectives and measures of the original Performance Award being assumed or replaced shall be adjusted as the Committee determines is equitably required.

-21-

---

The Committee, in its discretion and without the need of the consent of a Participant (or the Participant's transferee of an award), may provide that a Time-Based Award that is outstanding on the Control Change Date shall be assumed by, or a substitute award granted by, the Successor Entity (or, if applicable, the Parent Company) in the Change in Control. Such assumed or substituted award shall be of the same type of award as the original Time-Based Award being assumed or replaced. The assumed or substituted award shall have a value, as of the Control Change Date, that is substantially equal to the value of the original Time-Based Award (or the difference between the Fair Market Value and the option price or Initial Value in the case of Options and SARs) as the Committee determines is equitably required. The assumed or substituted award shall have the same vesting terms and conditions as the original Time-Based Award being assumed or replaced.

#### 15.03 **Limitation of Benefits**

The benefits that a Participant may be entitled to receive under this Plan and other benefits that a Participant is entitled to receive under other plans, agreements and arrangements (which, together with the benefits provided under this Plan, are referred to as "Payments"), may constitute Parachute Payments that are subject to Code Sections 280G and 4999. As provided in this Section 15.03, the Parachute Payments will be reduced pursuant to this Section 15.03 if, and only to the extent that, a reduction will allow a Participant to receive a greater Net After Tax Amount than a Participant would receive absent a reduction.

The Accounting Firm will first determine the amount of any Parachute Payments that are payable to a Participant. The Accounting Firm also will determine the Net After Tax Amount attributable to the Participant's total Parachute Payments.

The Accounting Firm will next determine the largest amount of Payments that may be made to the Participant without subjecting the Participant to tax under Code Section 4999 (the "Capped Payments"). Thereafter, the Accounting Firm will determine the Net After Tax Amount attributable to the Capped Payments.

The Participant will receive the total Parachute Payments or the Capped Payments, whichever provides the Participant with the higher Net After Tax Amount. If the Participant will receive the Capped Payments, the total Parachute Payments will be adjusted by first reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are not subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) and then by reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) in a manner that results in the best economic benefit to the Participant (or, to the extent economically equivalent, in a pro rata manner). The Accounting Firm will notify the Participant and the Company if it determines that the Parachute Payments must be reduced to the Capped Payments and will send the Participant and the Company a copy of its detailed calculations supporting that determination.

-22-

---

As a result of the uncertainty in the application of Code Sections 280G and 4999 at the time that the Accounting Firm makes its determinations under this Article XV, it is possible that amounts will have been paid or distributed to the Participant that should not have been paid or distributed under this Section 15.03 ("Overpayments"), or that additional amounts should be paid or distributed to the Participant under this Section 15.03 ("Underpayments"). If the Accounting Firm determines, based on either the assertion of a

deficiency by the Internal Revenue Service against the Company or the Participant, which assertion the Accounting Firm believes has a high probability of success or controlling precedent or substantial authority, that an Overpayment has been made, the Participant must repay the Overpayment to the Company, without interest; *provided, however*, that no amount will be payable by the Participant to the Company unless, and then only to the extent that, the repayment would either reduce the amount on which the Participant is subject to tax under Code Section 4999 or generate a refund of tax imposed under Code Section 4999. If the Accounting Firm determines, based upon controlling precedent or substantial authority, that an Underpayment has occurred, the Accounting Firm will notify the Participant and the Company of that determination and the amount of that Underpayment will be paid, without interest, to the Participant promptly by the Company.

For purposes of this Section 15.03, the term “Accounting Firm” means the independent accounting firm engaged by the Company immediately before the Control Change Date. For purposes of this Article XV, the term “Net After Tax Amount” means the amount of any Parachute Payments or Capped Payments, as applicable, net of taxes imposed under Code Sections 1, 3101(b) and 4999 and any State or local income taxes applicable to the Participant on the date of payment. The determination of the Net After Tax Amount shall be made using the highest combined effective rate imposed by the foregoing taxes on income of the same character as the Parachute Payments or Capped Payments, as applicable, in effect on the date of payment. For purposes of this Section 15.03, the term “Parachute Payment” means a payment that is described in Code Section 280G(b)(2), determined in accordance with Code Section 280G and the regulations promulgated or proposed thereunder.

Notwithstanding any other provision of this Section 15.03, this Section 15.03 shall not limit or otherwise supersede the provisions of any other agreement or plan which provides that a Participant cannot receive Payments in excess of the Capped Payments.

## **ARTICLE XVI AMENDMENT**

The Board may amend or terminate this Plan at any time; *provided, however*, that no amendment may adversely impair the rights of Participants with respect to outstanding awards. In addition, an amendment will be contingent on approval of the Company’s stockholders if (a) such approval is required by law or the rules of any exchange on which the Common Stock is listed, (b) the amendment would materially increase the benefits accruing to Participants under this Plan, materially increase the aggregate number of shares of Common Stock that may be issued under this Plan and the Entities Plan (except as provided in Article XII) or materially modify the requirements as to eligibility for participation in this Plan or (c) other than in connection with an involuntary termination of service, the amendment would accelerate the time at which any Option or SAR may be exercised, the time at which a Stock Award or Other Equity-Based Award may become transferable or nonforfeitable or the time at which an Other Equity-Based Award, an Incentive Award or an award of Performance Units may be settled or if the amendment would extend the term of this Plan. For the avoidance of doubt, without the approval of stockholders, the Board may not (except pursuant to Article XII) (a) reduce the option price per share of an outstanding Option or the Initial Value of an outstanding SAR, (b) cancel an outstanding Option or outstanding SAR when the option price or Initial Value, as applicable exceeds the Fair Market Value or (c) take any other action with respect to an outstanding Option or an outstanding SAR that may be treated as a repricing of the award under the rules and regulations of the principal exchange on which the Common Stock is listed for trading.

-23-

---

## **ARTICLE XVII DURATION OF PLAN**

No Stock Award, Performance Unit Award, Incentive Award, Option, SAR or Other Equity-Based Award may be granted under this Plan ten years after the Effective Date. Stock Awards, Performance Unit awards, Options, SARs and Other Equity-Based Awards granted before such date shall remain valid in accordance with their terms.

## **ARTICLE XVIII EFFECTIVENESS OF PLAN**

Options, SARs, Stock Awards, Performance Unit Awards, Incentive Awards and Other Equity-Based Awards (including LTIP Units) may be granted under this Plan on and after October 6, 2022 (the “Effective Date”).





## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and R. Ramin Kamfar, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer and as a director of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Ramin Kamfar  
BHM

- 1 -

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 2 -

---

Section 2. **Services by Indemnitee.** Indemnitee serves or will serve as an officer and as a director of the Company. 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 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 stockholders entitled to vote generally in the election of directors or of the Board of Directors or an agreement approved by the Board of Directors to which the Company is a party expressly provide otherwise.

Indemnification Agreement – Ramin Kamfar  
BHM

- 3 -

---

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 Partly 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 an 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 Indemnatee in connection with such Proceeding. The Company shall make such advance or advances of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of Indemnatee (but without duplication), (a) payment of such Expenses directly to third parties on behalf of Indemnatee, (b) advance of funds to Indemnatee in an amount sufficient to pay such Expenses or (c) reimbursement to Indemnatee for Indemnatee's payment of such Expenses. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnatee and shall include or be preceded or accompanied by a written affirmation by Indemnatee and a written undertaking by or on behalf of Indemnatee, 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 Indemnatee 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 Indemnatee and shall be accepted without reference to Indemnatee'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 Indemnatee is or may be, by reason of service in Indemnatee's Corporate Status, made a witness or otherwise asked to participate in any Proceeding, whether instituted by the Company or any other person, and to which Indemnatee is not a party, Indemnatee shall be advanced and indemnified against all Expenses actually and reasonably incurred by Indemnatee or on Indemnatee's behalf in connection therewith within ten (10) 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 Indemnatee. In connection with any such advance of Expenses, the Company may require Indemnatee to provide an affirmation and undertaking 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 4 -

---

Section 10. Procedure for Determination of Entitlement to Indemnification.

(a) To obtain indemnification under this Agreement, Indemnatee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnatee and is reasonably necessary or appropriate to determine whether and to what extent Indemnatee is entitled to indemnification. Indemnatee may submit one or more such requests from time to time and at such time(s) as Indemnatee deems appropriate in Indemnatee's sole discretion. The officer of the Company receiving any such request from Indemnatee shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that Indemnatee has requested indemnification.

(b) Upon written request by Indemnatee for indemnification pursuant to Section 10(a) above, a determination, if required by applicable law, with respect to Indemnatee'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 Indemnatee, which Independent Counsel shall be selected by Indemnatee 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 Indemnatee, 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 Indemnatee or (C) if so directed by the Board of Directors, by the stockholders of the Company, other than directors or officers who are parties to the Proceeding. If it is so determined that Indemnatee is entitled to indemnification, the Company shall make payment to Indemnatee within ten (10) days after such determination. Indemnatee shall cooperate with the person, persons or entity making such determination with respect to Indemnatee'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 Indemnatee 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 Indemnatee in so cooperating with the person, persons or entity making such

determination shall be borne by the Company (irrespective of the determination as to Indemnatee's entitlement to indemnification) and the Company shall indemnify and hold Indemnatee 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) making such determination shall presume that Indemnatee is entitled to indemnification under this Agreement if Indemnatee 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 Indemnatee 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, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise shall not be imputed to Indemnatee for purposes of determining any other right to indemnification under this Agreement.

Indemnification Agreement – Ramin Kamfar  
BHM

- 5 -

---

Section 12. Remedies of Indemnatee.

(a) If (i) a determination is made pursuant to Section 10(b) of this Agreement that Indemnatee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnatee is entitled to indemnification, Indemnatee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnatee's entitlement to indemnification or advance of Expenses. Indemnatee shall commence a proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnatee 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 Indemnatee to enforce Indemnatee'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 Indemnatee's right to seek any such adjudication or award in arbitration.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12, Indemnatee 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 Indemnatee is not entitled to indemnification or advance of Expenses, as the case may be. If Indemnatee commences a judicial proceeding or arbitration pursuant to this Section 12, Indemnatee 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 Indemnatee'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, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 6 -

---

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 fifteen (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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("**Section 409A**") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

Indemnification Agreement – Ramin Kamfar  
BHM

- 7 -

---

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 8 -

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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, 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 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 9 -

---

(d) The Company and Indemnitee agree herein 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 22. 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 23. Identical 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 24. 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 25. 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.

Indemnification Agreement – Ramin Kamfar  
BHM

- 10 -

---

Section 26. 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 received for by the party to whom said notice or other communication shall have been directed on the day of such delivery, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Ramin Kamfar  
BHM

- 11 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc., a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

Indemnification Agreement – Ramin Kamfar  
BHM

- 12 -

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ R. Ramin Kamfar

R. Ramin Kamfar, an individual

Address: 1345 Avenue of the Americas 32nd Floor  
New York, New York 10105

Indemnification Agreement – Ramin Kamfar  
BHM

- 13 -

---

**EXHIBIT A**

FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20 by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not

relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Indemnification Agreement – Ramin Kamfar  
BHM

Exhibit A

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Jordan Ruddy, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Jordan Ruddy  
BHM

- 1 -

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 2 -

---

(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 as an officer of the Company. 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;

Indemnification Agreement – Jordan Ruddy  
BHM

- 3 -

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 4 -

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 5 -

---

- (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) 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, real estate investment trust, 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 6 -

---

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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 7 -

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

Indemnification Agreement – Jordan Ruddy  
BHM

(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnatee is a party by reason of service in Indemnatee's Corporate Status, (i) Indemnatee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld or delayed, that Indemnatee 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) Indemnatee 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 Indemnatee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnatee shall be entitled to be represented by separate legal counsel of Indemnatee'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 Indemnatee the benefits intended to be provided to Indemnatee hereunder, Indemnatee shall have the right to retain counsel of Indemnatee'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 Indemnatee in connection with any such matter.

Section 14. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnatee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnatee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Section 15. 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 Indemnatee may at any time be entitled under applicable law, the charter or Bylaws of the Company, any agreement or a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. Unless consented to in writing by Indemnatee, 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 Indemnatee under this Agreement in respect of any action taken or omitted by such Indemnatee in Indemnatee'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.

Indemnification Agreement – Jordan Ruddy  
BHM

(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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

Indemnification Agreement – Jordan Ruddy  
BHM

- 10 -

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

Indemnification Agreement – Jordan Ruddy  
BHM

- 11 -

---

(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, 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 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 herein 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 22. 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.

Indemnification Agreement – Jordan Ruddy  
BHM

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Jordan Ruddy  
BHM

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation  
Its: General Partner

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: President

Indemnification Agreement – Jordan Ruddy  
BHM

- 14 -

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Jordan Ruddy  
Jordan Ruddy, an individual

Address: 1345 Avenue of the Americas 32nd Floor  
New York, New York 10105

Indemnification Agreement – Jordan Ruddy  
BHM

- 15 -

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20 by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Indemnification Agreement – Jordan Ruddy  
BHM

Exhibit A

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Ryan MacDonald, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service;

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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

- 1 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

- 2 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

(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 as an officer of the Company. 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 Indemnitee's Corporate Status; or

- 3 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

(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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

- 4 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

- 5 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

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) 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, real estate investment trust, 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.

- 6 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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.

- 7 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

### 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 fifteen (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.

- 8 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

Section 14. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code (“**Section 409A**”) and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

- 9 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

- 10 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

- 11 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

(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, 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 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 herein 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 22. 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.

- 12 -

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

- 13 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,

a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,

a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,

a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

- 14 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Ryan MacDonald

Ryan MacDonald, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor

New York, New York 10105

- 15 -

Indemnification Agreement – Ryan MacDonald  
BHM

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Exhibit A

Indemnification Agreement – Ryan MacDonald  
BHM

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and James Babb, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service;

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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

- 1 -

Indemnification Agreement – James Babb  
BHM

---

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

- 2 -

Indemnification Agreement – James Babb  
BHM

---

(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 as an officer of the Company. 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;

- 3 -

Indemnification Agreement – James Babb  
BHM

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

- 4 -

Indemnification Agreement – James Babb  
BHM

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

- 5 -

Indemnification Agreement – James Babb  
BHM

---

(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) 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, real estate investment trust, 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.

- 6 -

Indemnification Agreement – James Babb  
BHM

---

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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

- 7 -

Indemnification Agreement – James Babb  
BHM

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

- 8 -

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

- 9 -

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

- 10 -

Indemnification Agreement – James Babb  
BHM

---

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

- 11 -

Indemnification Agreement – James Babb  
BHM

---

(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, 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 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 herein 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 22. 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.

- 12 -

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,

a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,

a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,

a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

- 14 -

Indemnification Agreement – James Babb

BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ James G. Babb, III

James G. Babb, III, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor

New York, New York 10105

- 15 -

Indemnification Agreement – James Babb

BHM

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Exhibit A

Indemnification Agreement – James Babb  
BHM

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Christopher J. Vohs, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service;

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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

- 1 -

Indemnification Agreement – Christopher J. Vohs  
BHM

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

- 2 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(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 as an officer of the Company. 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;

- 3 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

- 4 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

- 5 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

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) 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, real estate investment trust, 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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

- 6 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(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, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

- 7 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code (“**Section 409A**”) and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee’s lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

- 8 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

- 9 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

- 10 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

(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, 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 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 herein 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 22. 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.

- 11 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

or to such other address as may have been furnished in writing to Indemnatee by the Company or to the Company by Indemnatee, as the case may be.

Section 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

- 12 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

- 13 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Christopher J. Vohs  
Christopher J. Vohs, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor  
New York, New York 10105

- 14 -

Indemnification Agreement – Christopher J. Vohs  
BHM

---

## EXHIBIT A

### FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated **[DATE]**, 20\_\_\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Exhibit A

Indemnification Agreement – Christopher J. Vohs  
BHM

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Michael DiFranco, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service;

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;

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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

- 1 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

- 2 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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 as an officer of the Company. 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;

- 3 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

- 4 -

Indemnification Agreement – Michael DiFranco  
BHM

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

- 5 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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) 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, real estate investment trust, 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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Michael DiFranco  
BHM

---

(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, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("**Section 409A**") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Section 15. 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 stockholders 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.

- 8 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

- 9 -

Indemnification Agreement – Michael DiFranco  
BHM

---

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

- 10 -

Indemnification Agreement – Michael DiFranco  
BHM

---

(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, 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 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 herein 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 22. 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.

- 11 -

Indemnification Agreement – Michael DiFranco  
BHM

---

Section 23. Identical 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 24. 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 25. 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 26. 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 received for by the party to whom said notice or other communication shall have been directed on the day of such delivery, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

- 12 -

Indemnification Agreement – Michael DiFranco  
BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,

a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation  
Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

- 13 -

Indemnification Agreement – Michael DiFranco  
BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Michael DiFranco

Michael DiFranco, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor  
New York, New York 10105

- 14 -

Indemnification Agreement – Michael DiFranco  
BHM

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

---

Exhibit A

Indemnification Agreement – Michael Di Franco  
BHM

---



## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Jason Emala, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as an officer of the REIT and may, therefore, be subjected to claims, suits or proceedings arising as a result of such service;

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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

- 1 -

Indemnification Agreement – Jason Emala  
BHM

---

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

- 2 -

Indemnification Agreement – Jason Emala  
BHM

---

(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 as an officer of the Company. 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;

- 3 -

Indemnification Agreement – Jason Emala  
BHM

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 Indemnatee in connection with such Proceeding. The Company shall make such advance or advances of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of Indemnatee (but without duplication), (a) payment of such Expenses directly to third parties on behalf of Indemnatee, (b) advance of funds to Indemnatee in an amount sufficient to pay such Expenses or (c) reimbursement to Indemnatee for Indemnatee's payment of such Expenses. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnatee and shall include or be preceded or accompanied by a written affirmation by Indemnatee and a written undertaking by or on behalf of Indemnatee, 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 Indemnatee 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 Indemnatee and shall be accepted without reference to Indemnatee's financial ability to repay such advanced Expenses and without any requirement to post security therefor.

- 4 -

Indemnification Agreement – Jason Emala  
BHM

---

Section 9. Indemnification and Advance of Expenses as a Witness or Other Participant. Notwithstanding any other provision of this Agreement, to the extent that Indemnatee is or may be, by reason of service in Indemnatee's Corporate Status, made a witness or otherwise asked to participate in any Proceeding, whether instituted by the Company or any other person, and to which Indemnatee is not a party, Indemnatee shall be advanced and indemnified against all Expenses actually and reasonably incurred by Indemnatee or on Indemnatee's behalf in connection therewith within ten (10) 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 Indemnatee. In connection with any such advance of Expenses, the Company may require Indemnatee to provide an affirmation and undertaking 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, Indemnatee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnatee and is reasonably necessary or appropriate to determine whether and to what extent Indemnatee is entitled to indemnification. Indemnatee may submit one or more such requests from time to time and at such time(s) as Indemnatee deems appropriate in Indemnatee's sole discretion. The officer of the Company receiving any such request from Indemnatee shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that Indemnatee has requested indemnification.

(b) Upon written request by Indemnatee for indemnification pursuant to Section 10(a) above, a determination, if required by applicable law, with respect to Indemnatee'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 Indemnatee, which Independent Counsel shall be selected by Indemnatee 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 Indemnatee, 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 Indemnatee or (C) if so directed by the Board of Directors, by the stockholders of the Company, other than directors or officers who are parties to the Proceeding. If it is so determined that Indemnatee is entitled to indemnification, the Company shall make payment to Indemnatee within ten (10) days after such determination. Indemnatee shall cooperate with the person, persons or entity making such determination with respect to Indemnatee'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 Indemnatee 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 Indemnatee in so cooperating with the person, persons or entity making such

determination shall be borne by the Company (irrespective of the determination as to Indemnatee's entitlement to indemnification) and the Company shall indemnify and hold Indemnatee harmless therefrom.

- (c) The Company shall pay the reasonable fees and expenses of Independent Counsel, if one is appointed.

- 5 -

Indemnification Agreement – Jason Emala  
BHM

---

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) making such determination shall presume that Indemnatee is entitled to indemnification under this Agreement if Indemnatee 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 Indemnatee 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, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise shall not be imputed to Indemnatee for purposes of determining any other right to indemnification under this Agreement.

- 6 -

Indemnification Agreement – Jason Emala  
BHM

---

Section 12. Remedies of Indemnatee.

(a) If (i) a determination is made pursuant to Section 10(b) of this Agreement that Indemnatee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnatee is entitled to indemnification, Indemnatee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnatee's entitlement to indemnification or advance of Expenses. Indemnatee shall commence a proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnatee 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 Indemnatee to enforce Indemnatee'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 Indemnatee's right to seek any such adjudication or award in arbitration.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12, Indemnatee 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 Indemnatee is not entitled to indemnification or advance of Expenses, as the case may be. If Indemnatee 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.

- 7 -

Indemnification Agreement – Jason Emala  
BHM

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

- 8 -

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

- 10 -

Indemnification Agreement – Jason Emala  
BHM

---

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.



Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

- 11 -

Indemnification Agreement – Jason Emala  
BHM

---

(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, 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 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 herein 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 22. 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.

- 12 -

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

- 13 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,

a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,

a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,

a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

- 14 -

Indemnification Agreement – Jason Emala

BHM

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Jason Emala

Jason Emala, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor

New York, New York 10105

- 15 -

Indemnification Agreement – Jason Emala

BHM

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

---

Exhibit A

Indemnification Agreement – Jason Emala  
BHM

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and I. Bobby Majumder, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as a director of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Majumder  
BHM

- 1 -

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Majumder  
BHM

- 2 -

---

(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 as a director of the Company. 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;

Indemnification Agreement – Majumder  
BHM

- 3 -

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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 an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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.

Indemnification Agreement – Majumder  
BHM

- 4 -

---

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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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.

Indemnification Agreement – Majumder  
BHM

- 5 -

---

(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) 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, real estate investment trust, 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.

Indemnification Agreement – Majumder  
BHM

- 6 -

---

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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Majumder  
BHM

- 7 -

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

Indemnification Agreement – Majumder  
BHM

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Section 15. 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 stockholders 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.

Indemnification Agreement – Majumder  
BHM

(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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

Indemnification Agreement – Majumder  
BHM

- 10 -

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

Indemnification Agreement – Majumder  
BHM

- 11 -

---

(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, 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 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 herein 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 22. 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.

Indemnification Agreement – Majumder  
BHM

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Majumder  
BHM

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

Indemnification Agreement – Majumder  
BHM

- 14 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ I. Bobby Majumder

I. Bobby Majumder, an individual

Address: 1345 Avenue of the Americas 32nd Floor  
New York, New York 10105

Indemnification Agreement – Majumder  
BHM

- 15 -

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Indemnification Agreement – [NAME]  
BHM

Exhibit A

---



## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Elizabeth Harrison, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as a director of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Elizabeth Harrison  
BHM

- 1 -

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

- 2 -

---

(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 as a director of the Company. 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;

Indemnification Agreement – Elizabeth Harrison  
BHM

- 3 -

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

Section 8. Advance of Expenses for an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

(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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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 Council 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) 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, real estate investment trust, 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

- 6 -

---

#### 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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

- 7 -

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

Indemnification Agreement – Elizabeth Harrison  
BHM

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Indemnification Agreement – Elizabeth Harrison  
BHM

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

- 10 -

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.



Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

Indemnification Agreement – Elizabeth Harrison  
BHM

- 11 -

---

(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, 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 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 herein 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 22. 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.

Indemnification Agreement – Elizabeth Harrison  
BHM

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Elizabeth Harrison  
BHM

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

Indemnification Agreement – Elizabeth Harrison  
BHM

- 14 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Elizabeth Harrison

Elizabeth Harrison, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor  
New York, New York 10105

Indemnification Agreement – Elizabeth Harrison  
BHM

- 15 -

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated **[DATE]**, 20\_\_\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

---

Indemnification Agreement – [**NAME**]  
BHM

Exhibit A

---

## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Kamal Jafarnia, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as a director of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Jafarnia  
BHM

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Jafarnia  
BHM

- 2 -

---

(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 as a director of the Company. 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;

Indemnification Agreement – Jafarnia  
BHM

- 3 -

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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.

Indemnification Agreement – Jafarnia  
BHM

Section 8. Advance of Expenses for an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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.

Indemnification Agreement – Jafarnia  
BHM

(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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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 Council 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) 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, real estate investment trust, 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.

Indemnification Agreement – Jafarnia  
BHM

- 6 -

---

#### 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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Jafarnia  
BHM

- 7 -

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

Indemnification Agreement – Jafarnia  
BHM

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Indemnification Agreement – Jafarnia  
BHM

Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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.

Indemnification Agreement – Jafarnia  
BHM

- 10 -

---

(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) hereof. 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 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) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

Indemnification Agreement – Jafarnia  
BHM

- 11 -

---

(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, 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 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 herein 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 22. 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.

Indemnification Agreement – Jafarnia  
BHM

Section 23. Identical 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 24. 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 25. 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 26. 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, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Jafarnia  
BHM

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation

Its: General Partner

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

Indemnification Agreement – Jafarnia  
BHM

- 14 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Kamal Jafarnia

Kamal Jafarnia, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor  
New York, New York 10105

Indemnification Agreement – Jafarnia  
BHM

- 15 -

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated [DATE], 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Indemnification Agreement – [NAME]  
BHM

Exhibit A

---



## INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (“**Agreement**”) is made and entered into as of October 6, 2022 (the “**Effective Date**”), by and among Bluerock Homes Trust, Inc., a Maryland corporation (the “**REIT**,” which terms shall include any entity controlled directly or indirectly by the REIT), Bluerock Residential Holdings, L.P., a Delaware limited partnership (the “**Operating Partnership**”) and Romano Tio, an individual (“**Indemnitee**”). The term “**Company**” as used in this Agreement is intended to refer to both or either of the REIT and/or the Operating Partnership, as the context requires so as to interpret the relevant provision in such a manner as to permit the broadest scope of allowable indemnification for Indemnitee hereunder permitted by applicable law and regulations.

WHEREAS, at the request of the REIT, Indemnitee currently serves or will serve as a director of the REIT 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 15% 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 of the Company (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 or recommended (1) by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or (2) by a committee of the Board of Directors consisting of at least two-thirds of the directors then in office who were directors as of the Effective Date or, in the case of clause (1) or (2), whose election or nomination for election was previously so approved or recommended.

Indemnification Agreement – Romano Tio  
BHM

- 1 -

(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, 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. 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 (A) of which a majority of the voting power or equity interest is or was owned directly or indirectly by the Company or (B) 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 to, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a 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, Employee Retirement Income Security Act of 1974, as amended, 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 for, 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.

Indemnification Agreement – Romano Tio  
BHM

- 2 -

---

(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 as a director of the Company. 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;

Indemnification Agreement – Romano Tio  
BHM

- 3 -

---

(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 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 stockholders entitled to vote generally in the election of directors or of 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 Partly 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.

Indemnification Agreement – Romano Tio  
BHM

Section 8. Advance of Expenses for an 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 of incurred Expenses within ten (10) days after the receipt by the Company of a statement or statements requesting such advance from time to time, whether prior to or after final disposition of such Proceeding, which advance may be in the form of, in the reasonable discretion of 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 person, 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 (10) 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 affirmation and undertaking 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 or appropriate 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.

Indemnification Agreement – Romano Tio  
BHM

(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 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 the Board of Directors by a majority vote of a quorum consisting of the Disinterested Directors or by a majority vote of a committee of the Board of Directors consisting of one or more Disinterested Directors designated to act in the matter by a majority vote of the Disinterested Directors, (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 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 stockholders 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 (10) 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) 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, real estate investment trust, 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.

Indemnification Agreement – Romano Tio  
BHM

- 6 -

---

#### 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 Section 8 or Section 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within thirty (30) days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or Section 9 of this Agreement within ten (10) 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 (10) days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, or in an arbitration conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, of Indemnitee's entitlement to indemnification or advance of Expenses. 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.

Indemnification Agreement – Romano Tio  
BHM

- 7 -

---

(d) In the event that Indemnitee is successful, pursuant to this Section 12, in seeking 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 Section 8 or Section 9 of this Agreement or the 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 fifteen (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.

Indemnification Agreement – Romano Tio  
BHM

- 8 -

---

(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. Section 409A Compliance.

(a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code ("Section 409A") and regulations promulgated thereunder. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Treasury Regulation 1.409A-3(c)), such provision shall be read, or shall be modified (with the mutual consent of the parties, which consent shall not be unreasonably withheld), as the case may be, in such a manner so that all payments due under this Agreement shall comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement shall be treated as a separate payment. In no event may Indemnitee, directly or indirectly, designate the calendar year of payment.

(b) All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Indemnitee's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

Indemnification Agreement – Romano Tio  
BHM

- 9 -

---

#### Section 15. 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 stockholders 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.

Section 16. Insurance.

(a) The Company will use its reasonable best efforts to acquire and maintain 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. 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 300% 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 300% 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) hereof. 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 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.

Indemnification Agreement – Romano Tio  
BHM

- 10 -

---

(c) Indemnitee shall cooperate with the Company or any insurance carrier of the Company with respect to any Proceeding.

Section 17. 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 18. 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, with 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 19. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders 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 stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 20. Joint and Several Liability. The REIT and the Operating Partnership each agree to be held jointly and severally liable for their obligations under this Agreement.

Section 21. 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 or may no longer be 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).

Indemnification Agreement – Romano Tio  
BHM

- 11 -

---

(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, 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 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 herein 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 22. 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.

Indemnification Agreement – Romano Tio  
BHM

- 12 -

---

Section 23. Identical 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 24. 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 25. 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 26. 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 received for by the party to whom said notice or other communication shall have been directed on the day of such delivery, (ii) delivered by Federal Express or other nationally recognized overnight delivery service, on the first business day after the date on which it is deposited, or (iii) 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:

1345 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, New York 10105  
Attn: R. Ramin Kamfar

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 27. 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.

Section 28. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

Indemnification Agreement – Romano Tio  
BHM

- 13 -

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**REIT:**

BLUEROCK HOMES TRUST, INC.,  
a Maryland corporation

By: /s/ Jordan Ruddy

Name: Jordan Ruddy

Title: President

**OPERATING PARTNERSHIP:**

BLUEROCK RESIDENTIAL HOLDINGS, L.P.,  
a Delaware limited partnership

By: Bluerock Homes Trust, Inc.,  
a Maryland corporation  
Its: General Partner

By: /s/ Jordan Ruddy  
Name: Jordan Ruddy  
Title: President

Indemnification Agreement – Romano Tio  
BHM

- 14 -

---

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**INDEMNITEE:**

/s/ Romano Tio, an individual  
Romano Tio, an individual

Address: 1345 Avenue of the Americas 32<sup>nd</sup> Floor  
New York, New York 10105

Indemnification Agreement – Romano Tio  
BHM

- 15 -

---

**EXHIBIT A**

**FORM OF AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED**

The Board of Directors of Bluerock Homes Trust, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This affirmation and undertaking is being provided pursuant to that certain Indemnification Agreement dated **[DATE]**, 20\_\_ by and between Bluerock Homes Trust, 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/or 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 of 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, (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 and which have not been successfully resolved as described in Section 7 of the Indemnification Agreement. To the extent that Advanced Expenses do not relate to a specific claim, issue or matter in the Proceeding, I agree that such Expenses shall be allocated on a reasonable and proportionate basis.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

---

Indemnification Agreement – [NAME]  
BHM

Exhibit A

---



1345 Avenue of the Americas  
32nd Floor  
New York, NY 10105  
[bluerockresidential.com](http://bluerockresidential.com)

**PRESS RELEASE – FOR IMMEDIATE RELEASE**

**Bluerock Homes Trust Launches Single Family Rental REIT, Begins Listing on NYSE-American (BHM)**

**New York, NY – (October 6, 2022)** — Bluerock Homes Trust, Inc. (NYSE American: BHM) (the “Company”, “BHM, or “Bluerock Homes Trust”) launches today as an externally-managed real estate investment trust (REIT) focused on the single-family rental market. The Company’s common stock will begin trading on the New York Stock Exchange American under the ticker “BHM” at 9:30 a.m. Eastern Time on October 6, 2022.

The listing of the Company was effectuated through the spin-off of Bluerock Homes Trust from Bluerock Residential Growth REIT, Inc. BHM’s initial portfolio consists of interests in approximately 4,000 homes, comprised of 2,300 operating homes, of which roughly 1,800 and 500 are scattered-site/clustered and build-to-rent, respectively, as well as 1,600 additional homes held through preferred equity and mezzanine loan investments, of which 500 are stabilized and 1,100 are under development/lease-up.

“The public listing of Bluerock Homes Trust is an exciting event for our shareholders”, remarked Ramin Kamfar, Chairman and Chief Executive Officer of Bluerock Homes Trust. “Our executive management team holds strong conviction regarding the single-family rental sector and we are pleased to be able to separate these assets into a new, distinct public operating company to enable us to unlock the value creation potential tied to these homes. The substantial undersupply of housing and significant costs to homeownership generate long-term tailwinds for the single-family rental market and the opportunity to create quality affordable solutions for our renters”, added Kamfar.

**About Bluerock Homes Trust**

Bluerock Homes Trust, Inc. (NYSE American: BHM), headquartered in New York, New York, is an externally managed REIT that owns and operates high-quality single-family properties located in attractive markets with a focus on the knowledge-economy and high quality of life regions of the Sunbelt and high growth areas of the Western United States. BHM’s principal objective is to generate attractive risk-adjusted investment returns by assembling a portfolio of pre-existing single-family rental homes and developing build-to-rent communities. BHM properties are located across a diverse group of growth markets and will seek to target a growing pool of middle-market renters seeking the single-family lifestyle without the upfront and ongoing investments associated with home ownership. For more information, please visit [www.bluerockhomes.com](http://www.bluerockhomes.com).

**Forward-Looking Statements**

This communication contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other federal securities laws. All statements other than statements of historical fact are “forward-looking statements” for purposes of federal and state securities laws and may be identified by words such as “will,” “expect,” “believe,” “plan,” “anticipate,” “intend,” “goal,” “future,” “outlook,” “guidance,” “target,” “estimate” and similar words or expressions, including the negative version of such words and expressions. These forward-looking statements are based upon the Company’s present expectations, estimates and projections about the industry and markets in which the Company operates and beliefs of and assumptions made by Company management, involve uncertainty that could cause the actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements and are not guaranteed to occur. Furthermore, the Company disclaims any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events or other changes. Investors should not place undue reliance upon these forward-looking statements. Although the Company believes that the expectations reflected in these forward-looking statements are based on reasonable assumptions, the Company’s actual results and performance could differ materially from those set forth in these forward-looking statements due to numerous factors. Factors that could have a material adverse effect on our operations and future prospects include, but are not limited to, the failure to recognize the potential benefits of the Spin-Off; real estate risks, including fluctuations in real estate values and the general economic climate in local markets and competition for tenants in such markets; risks associated with geographic concentration of our investments; decreased rental rates or increasing vacancy rates; our ability to lease newly acquired or newly constructed apartment or single-family properties; potential defaults on or non-renewal of leases by tenants; creditworthiness of tenants; our ability to obtain financing for and complete acquisitions under contract at the contemplated terms, or at all; development and acquisition risks, including rising and unanticipated costs, delays in timing, abandonment of opportunities, and failure of such acquisitions and developments to perform in accordance with projections; the timing of acquisitions and dispositions; the performance of our network of leading regional apartment and single-family residential owner/operators with which we invest, including through controlling positions in joint ventures; potential natural disasters such as hurricanes, tornadoes and floods; national, international, regional and local economic conditions; Board determination as to timing and payment of dividends, and our ability to pay future distributions at the dividend rates we have paid historically; the general level of interest rates; potential changes in the law or governmental regulations that affect us and interpretations of those laws and regulations, including changes in real estate and zoning or tax laws, and potential increases in real property tax rates, financing risks, including the risks that our cash flows from operations may be insufficient to meet required payments of principal and interest and we may be unable to refinance our existing debt upon maturity or obtain new financing on attractive terms or at all; lack of or insufficient amounts of insurance; our ability to maintain our qualification as a REIT; litigation, including costs associated with prosecuting or defending claims and any adverse outcomes; and possible environmental liabilities, including costs,

finer or penalties that may be incurred due to necessary remediation of contamination of properties presently owned or previously owned by us or a subsidiary owned by us or acquired by us. There can be no assurance as to the impact of COVID-19 and other potential future outbreaks of infectious diseases on the Company's financial condition, results of operations, cash flows and performance and those of their respective tenants as well as on the economy and real estate and financial markets. For further discussion of the factors that could affect outcomes, please refer to the risk factors set forth in the Company's registration statement on Form 10, and subsequent filings by the Company with the SEC. Any forward-looking statement speaks only as of the date on which it is made, and the Company assumes no obligation to update or revise such statement, whether as a result of new information, future events or otherwise, except as required by applicable law. The Company claims the safe harbor protection for forward looking statements contained in the Private Securities Litigation Reform Act of 1995.

Media Contact:

Josh Hoffman  
208-475-2380  
jhoffman@bluerockre.com

---

Cover

Oct. 05, 2022

Cover [Abstract]

<u>Document Type</u>	8-K
<u>Amendment Flag</u>	false
<u>Document Period End Date</u>	Oct. 05, 2022
<u>Current Fiscal Year End Date</u>	--12-31
<u>Entity File Number</u>	001-41322
<u>Entity Registrant Name</u>	BLUEROCK HOMES TRUST, INC.
<u>Entity Central Index Key</u>	0001903382
<u>Entity Tax Identification Number</u>	87-4211187
<u>Entity Incorporation, State or Country Code</u>	MD
<u>Entity Address, Address Line One</u>	1345 Avenue of the Americas
<u>Entity Address, Address Line Two</u>	32nd Floor
<u>Entity Address, City or Town</u>	New York
<u>Entity Address, State or Province</u>	NY
<u>Entity Address, Postal Zip Code</u>	10105
<u>City Area Code</u>	212
<u>Local Phone Number</u>	843-1601
<u>Written Communications</u>	false
<u>Soliciting Material</u>	false
<u>Pre-commencement Tender Offer</u>	false
<u>Pre-commencement Issuer Tender Offer</u>	false
<u>Title of 12(b) Security</u>	Class A Common Stock, par value \$0.01 per share
<u>Trading Symbol</u>	BHM
<u>Security Exchange Name</u>	NYSE
<u>Entity Emerging Growth Company</u>	true
<u>Elected Not To Use the Extended Transition Period</u>	false









